

# Official Gazette



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## OFFICIAL MONTH IN REVIEW

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**October 1.**—**A**FTER BREAKFAST with some callers at the Malacañang tea house, the President received a delegation from San Antonio, Zambales, headed by Mayor Mariano Evangelista. The group called to report that the new San Antonio market was about to be inaugurated.

Before leaving in the morning for his home province of Zambales, where he intended to spend the week-end, the President issued Administrative Order No. 67, creating the Agricultural Tenancy Commission to coordinate the duties and functions of two department secretaries. The administrative order was issued in order to effect a full and proper implementation of the Agricultural Tenancy Act on behalf of the secretary of justice and the secretary of agriculture and natural resources.

The new commission is to be composed of a chairman and two commissioners who shall be designated by the two secretaries in consultation with each other. It shall be under the administrative supervision of the secretary of agriculture and natural resources and shall be divided into a mediation division, a technical division, and an information division to be headed by the chairman and the two commissioners, respectively. The commission shall advise the two secretaries on all matters relating to the implementation of the act and shall act for and on behalf of either or both when so authorized. (See pp. 4632-4633, for the full text of Administrative Order No. 67.)

The President also issued Executive Order No. 73, creating a special committee to determine present and future real estate requirements for the national defense program. Named to the committee were Defense Secretary Sotero Cabahug, chairman; and Justice Secretary Pedro Tuason, Solicitor General Ambrosio Padilla, Lieut. Gen. Jesus Vargas, Brig. Gen. Pelagio A. Cruz, and Commodore Jose M. Francisco, as members.

Moreover, the President signed Proclamation No. 75, declaring the last week of October, 1954, as "Public Administration Week". Executive Secretary Fred Ruiz Castro was designated to take charge and coordinate all activities connected with the celebration of the week. The proclamation says that one of the immediate and principal objectives of the present Administration is to achieve efficiency in public service, and that in order to attain this objective it is necessary to focus national attention to the problems by designating a period during which officials and employees, in particular, and the people, in general, may devote their time, thought, and energies to the matter.

Accompanied by five members of the San Antonio delegation, the President motored to Nichols airbase, where he boarded the plane *Pagasa* and took off for Zambales. Mrs. Magsaysay, Dr. Jose Corpus (the President's physician), and Capt. Jose Estrella were in the presidential party.

Arriving at the San Marcelino airstrip at 10:15 a.m., the President immediately proceeded to his hometown, Castillejos. From there, he motored to San Antonio, where he inspected the municipal building and the newly constructed market. He returned to Castillejos after holding a conference with San Antonio officials.

President and Mrs. Magsaysay had their lunch at their parents' home in barrio Baring, Castillejos.

In the afternoon, the President decided to return to Manila because of a toothache. He took off from the San Marcelino airstrip at 4:30 p.m., after a conference with Zambales Gov. Archimedes Villanueva and District Engineer Jose Buenaventura.

The President was back at the Palace at 6 p.m. He sent at once for an army dentist, Col. Agustin Zarate, and had his aching tooth treated.

In the evening, the President instructed Justice Secretary Pedro Tuason to look into the dismissal of a gambling charge against Mayor Roberto Monroy of Navotas, Rizal, on motion of Rizal First Assistant Provincial Fiscal Irineo B. Bernardo.

The President expressed wonder why the prosecutor had asked for the dismissal of the gambling charge against Monroy even before it was tried, on the ground of "lack of sufficient evidence." Monroy had been surprised by NBI agents in a gambling house in Navotas.

**October 2.**—**S**LIPPING QUIETLY out of Malacañang early in the morning, the President was reported to have gone to an undisclosed place so as to be able to work uninterrupted on pending state papers. One Malacañang guard said the President left so hurriedly that his aide, Capt. Patrocinio Garcia, was almost left behind.

Palace aides, as usual, did not know or pretended not to know where the President had gone. An informant said the President and the First Lady boarded the yacht *Pagasa* for a week-end cruise in Manila Bay, while another said the Chief Executive boarded his plane *Pagasa* and took off for his hometown, Zambales, to resume his interrupted vacation.

Believing that the President was still feeling the effect of his tooth trouble the previous day, Palace aides did not expect the President to leave Malacañang this week-end. But he left and nobody seemed to know where he went.

**October 3.**—**E**ARLY IN THE MORNING, the President heard mass with members of his family at the Malacañang chapel.

About 9 a.m., the President repaired to his study where he received a group of FOA officials who had made a brief stop-over in Manila enroute to Indo-China. Explaining their visit to Malacañang, the FOA mission informed the President that their stop-over in the Philippines was actually to obtain first-hand information on methods successfully employed by the Philippine Chief Executive in combatting Communism in this country.

The President told the FOA missionaries about his program of rural improvement and the steps he had taken to raise the morale of the Armed Forces since he was secretary of national defense.

After the FOA officials had left, the President, accompanied by Mrs. Magsaysay and some Palace aides, boarded his car and motored to the Tutuban railroad station. There he was shown the newly remodelled coaches which used to be third class coaches before they were converted into air-conditioned ones.

While inspecting a coach, the President decided to take a ride. He ordered the coach hitched to an engine and tried it down to the Sta. Mesa railroad station.

Aboard the train enroute to Sta. Mesa, Col. Salvador Villa, general manager of the MRR, took the opportunity to give the President some background information on the recent acquisition by the RFC of British MRR bondholding, in view of some misinformation circulated by some quarters to the effect that the Government actually had overpaid the British bondholders by more than \$6 million where the RFC remitted P13,236,000 in full payment of the outstanding MRR bonds some three months ago.

Colonel Villa explained that F. F. Fox, investment securities broker of New York, who had been referred to in the report as having offered to accept redemption of the bonds at 50 per cent their face value as early as July 16, 1953, had been negotiating only for the Southern Line Bond and not for the British bonds which the Government redeemed at a bargain.

The MRR manager recalled that the company had two major bond issues floated in 1916 when the company was bought from the British for P8,000,000 cash and P53,000,000 in bonds. One issue was the five per cent Refunding Mortgage Bonds with a total value of P26,472,000 held as a block by the British Holding Company (the Manila Railway Co., Ltd.) represented by



Sigmund G. Warburg in England and for some time, by Chick Parsons in the Philippines. The other bond issue was the four per cent Southern Line Bond with a total value of P27 million.

The five per cent Refunding Mortgage Bond was the one transferred to the RFC, Colonel Villa said. It would mature on July 1, 1956, including interest now amounting to P42 million, he added.

In his conference with Colonel Villa aboard the train, the President said that the government railroad should strive to provide better transportation facilities to the lower classes of people. He instructed Colonel Villa to find means of lowering the rates of fare charged by the MRR in its first-class coaches with the end in view of making these air-conditioned accommodations available to more people. The President expressed his desire to see the families of laborers and farmers traveling under more comfortable conditions than those offered by third-class coaches.

**October 4.**—**A**FTER BREAKFAST with his family, the President started receiving callers. At the request of Gov. Decoroso Rosales of Samar, the President directed Public Works Secretary Vicente Orosa to release P120,000 from the President's contingent fund for the construction of the barrio roads in Matalud and Gandara, Samar.

Reps. Luminog Mangelen of Cotabato and Domocao Alonto of Lanao reported to the President the result of their study of Moro problems in Mindanao. The President said he would help them solve their problems.

Fathers Adolfo Garcia, O.P., and Pedro Tehero, O.P., extended to the President an invitation to attend the inauguration of the Santo Domingo Church in Quezon City on October 10.

A group of MWD officials headed by General Manager Manuel Mañosa gave to the President their contribution of P500 each to the Liberty Wells Fund and to the Peace and Amelioration Fund.

Mayor Jesus Aban of Balabac, Palawan, gave the President a talking bird, known as *Tiao*. Mayor Aban was accompanied by Rep. Gaudencio Abordo.

The President approved the projected installation of a tractor assembly plant in the country in a conversation with CB Deputy Governor Andres Castillo, who discussed with the Chief Executive some matters affecting the Central Bank.

Other callers of the President included Labor Secretary Eleuterio Adevosos, Sen. Tomas Cabili, Reps. Lorenzo Teves of Negros Oriental, Wenceslao Lagumbay of Laguna, Cornelio Villareal of Capiz, Serafin Salvador of Rizal, Carmen Dinglasan Consing of Capiz, Numeriano Babao of Batangas, and Enrique Corpus of Zambales, and Mayor Vicente Ferrer of Isabela.

The President, speaking extemporaneously before 46 district foresters, headed by Director of Forestry Felipe Amos, told the foresters to reclassify certain forest lands into agricultural lands in order to minimize or stop the arrest of *kaingeros* who cut down or burn trees in some areas for planting purposes. The President cited several cases where poor landless people had been jailed for planting on forest lands.

This step, the President said, would make available more lands for the landless. He added that the maps of the Bureau of Forestry should be revised. According to him, there are many deforested areas still classified as forest lands.

The foresters saw the President to discuss with him the problems of the *kaingin* system. He made it clear to them that he was against deliberate cutting down of trees in the forest lands.

The President was applauded by the foresters when he told them that he was concerned with the raising of their salaries. He said he would recommend to Congress the increase of their salaries to be on the same level with those of division superintendents of schools. He said he wanted the foresters to be happy in their work so that their morale would be high. He exhorted them to be honest because, he said, honesty in public service is one of the important factors in winning the confidence of the people.

After meeting the foresters, the President had lunch with leading lumber businessmen who promised their cooperation with the Corps of Engineers of the AFP in the acquisition of materials for pre-fabricated schools. Col. Antonio Chanco, chief of the Corps of Engineers, also attended the luncheon.

The President in the morning also ordered the Presidential Complaints and Action Committee and the Intelligence Section of the Bureau of Customs jointly to investigate the reported release of several thousand crates of onions from the Manila customs zone where they had been impounded.

These two agencies were instructed to determine whether the large quantities of big, red onions which reportedly appeared in the local market recently had been released from the customs bodegas despite the presidential directive to seize this illegally imported commodity.

Customs Commissioner Edilberto David, who was contacted by Executive Secretary Fred Ruiz Castro earlier this morning, said it was possible that these onions were part of some shipments released to importers sometime ago in compliance with a court order. David promised the Executive Secretary to submit to Malacañang a preliminary report of his findings this afternoon.

The President previously had ordered the implementation of an old Cabinet ruling banning the importation of garlic and onions in order to protect the interest of local growers. The importers then sought and obtained an injunction writ from the court as a result of which considerable quantities of onion shipments were released. The President, however, again ordered the enforcement of the ban on the ground that unlicensed importation of the commodity was contrary to standing Central Bank regulations.

**October 5.**—THE PRESIDENT this day authorized the release to the Government Service Insurance System, in two instalments, of the sum of P4,752,000 for the payment of additional premiums for about 679 employees of the National Government. The release of this amount will enable retired employees and those retiring this year to receive their annuities in lump sum for the first five years, or annually as the case may be.

The release of the money to the GSIS will be made as follows: the first half, amounting to P2,376,000, will be released immediately to correspond to the first two quarters of the current fiscal year, and the remaining half will be paid during the second semester.

Budget Commissioner Dominador Aytona and Malacañang Financial Assistant Rodolfo P. Andal recommended the release of the amount. In accordance with the provisions of Republic Act No. 1123, amending Republic Act No. 660, known as the Retirement Insurance Law, the amount of P9,237,400 is needed for the payment of additional premiums for about 679 retired employees and for those to retire this fiscal year. This amount is needed because of the failure of the offices concerned to pay to the GSIS additional premiums for these employees prior to 1951.

The budget commissioner in his communication to the President said that the GSIS agreed to have the amount of P4,752,000 remitted to it so that the retired and retiring employees may be paid their annuities in lump sum for the first five years, or gradually as the case may be. The GSIS also agreed that the balance of P4,482,000 be amortized within 15 years. The budget commissioner said that the amount of P4,752,000 had been included in the program of expenditures for the current fiscal year.

The President also authorized the RFC to issue a loan of P500,000 to the Metropolitan Water District to enable it to improve its water service.

The grant of the half-million peso loan to the MWD will enable this office to improve its facilities for increasing the water pressure. It is believed that it can further improve its water services to Manila residents and those living in the suburbs.

The President this day directed the Bureau of Lands to sell a piece of government land in Mabalacat, Pampanga, at P.30 per square meter to

landless people. The President's directive, given to a representative of the Bureau of Lands, was issued after the Chief Executive saw a delegation of about 50 men headed by Rep. Emilio Cortez of Pampanga, who complained that the Bureau of Lands wanted to sell the land to them at P.90 a square meter.

The delegation said that the land had been bought by the Government from private owners at P.30 a square meter. They wanted to buy the land from the Government at the same price.

According to the Bureau of Lands, some improvement had been made on the land, justifying the increase in price. The President said that the government could afford to lose a few centavos as long as landless people were given lands.

He told the Bureau of Lands representative to inform the director of lands that it was his desire that the land in question be sold at the same price at which the Government had bought it.

The President appointed Quezon Gov. Vicente Constantino as member of the technical panel of the Bell Trade Mission, to represent the Governors and City Mayors League and the Coconut Planters Association. Governor Constantino was nominated by the Governors and City Mayors League.

The members of the newly created Agricultural Tenancy Commission called on the President to discuss some administrative matters. The President wished them success in their "difficult task." The members who saw the President were Deogracias Lerma, Fernando Santiago, and Mrs. Lydia Mondoñedo. They were accompanied by the land tenure committee chairman, Eligio Tavanlar. Also with them was the FOA adviser to the commission, Joe Motheral.

Councilor Ricardo Brillantes of Caloocan, Rizal, also called to present to the President a plan for lighting the surroundings of the Balintawak monument. The President said he would study the matter.

Other callers included Sens. Alejo Mabanag and Macario Peralta, Jr.; Reps. Samuel Reyes of Isabela, Rogaciano Mercado of Bulacan, and Wenceslao Lagumbay of Laguna; and Govs. Patricio Fernandez of Palawan, Alejo Santos of Bulacan, and Dominador Chipeco of Laguna.

Abolition of the NARIC and immediate investigation and prosecution of all government officials involved in various allegedly anomalous transactions with this government agency during the past administration were recommended by the NARIC investigating committee in its final report submitted to President Magsaysay this noon.

Members of the probe body who called at Malacañang informed the President that open hearings had been conducted from August 9 to 31 in the board room of the NARIC building. A total of 28 witnesses gave their testimony, the longest being that of ex-Manager Gabriel Belmonte, who, the committee reported, took the stand for four and one-half consecutive days.

Along with its 110-page final report, the committee also submitted four volumes of transcripts of stenographic notes consisting of 890 pages; 16 notebooks of stenographic notes of the open hearing; and 22 folders of exhibits, financial statements, consolidated balance sheets, auditors' report up to June 30 this year, minutes, copies of contracts, and pertinent correspondence.

The probe body is composed of Fortunato de Leon, chairman; Eugenio R. Reyes and Maj. Francisco M. Jimenez, members. With the submission of its final report, the body considered its work completed, unless otherwise instructed further by the President.

The Chief Executive thanked the investigators for their invaluable cooperation. He promised to study their report thoroughly and act on it accordingly.

Summarizing its findings during the two-month probe, the committee reported that the NARIC was virtually bankrupt when the Magsaysay administration took over, its net loss being P363,365.34, notwithstanding conclusions of the auditor that it was only "financially unsound," and notwithstanding contrary figures shown in the consolidated balance sheet of the firm.

The committee found that Consul Justiniano Quirino and Rolando Garcia of the Department of Foreign Affairs played an important role in the 1952 rice importation. These two officials, according to the committee, profited in the amount of P45,000 for their part in the transaction.

The committee report mentioned a "mystery man" who allegedly received P100,000 in cash from the Republic Mercantile Corporation as a result of its contract to supply the NARIC with 30,000 metric tons of Burmese rice in 1952.

The bidding committee, headed by NARIC Auditor Torres, had found the bid of the Republic Mercantile Corporation was not the lowest but nevertheless gave the firm the award which, the investigating committee said, resulted in the loss of about P2,708,000.

The committee disclosed that former Budget Commissioner Pio Joven, then NARIC rice liquidator, had "deliberately" delayed decision on the offer of the Korean Government made through Ledesma and Company to purchase the NARIC's excess rice at \$212 per metric ton to the prejudice of the corporation. Joven finally rejected the Korean bid and awarded the contract to FIMCO at more onerous and disadvantageous terms, including excessive dollar allocations.

In recommending the investigation of the insurance commissioner, the committee reported that the surety bond of P638,000 filed by the Alto Surety and Insurance Company with the Republic Mercantile as principal, in favor of the NARIC in connection with the 1952 rice importation; and the P400,000 bond filed by the Associated Insurance with FIMCO as principal, in favor of the PNB in connection with the PNB-FIMCO deal, were illegal for being in excess of 10 per cent of the insurance firms' net assets or writing capacity at the time of the filing of the bonds, contrary to the provisions of the Insurance Law.

In recommending the abolition of the NARIC, the committee urged the creation of a new and independent establishment to carry on its business of price stabilization and protection of consumers with an entirely new personnel and set-up. Attached with the committee report was a draft of a proposed bill creating a Cereal Stabilization Corporation.

The President received this day a report from PCAC Commissioner Manuel P. Manahan indicating that the PCAC so far had not found any evidence of illegal releases of impounded onion importations.

Manahan said the only large-scale release of onion importation made lately was the delivery of 54,000 bags of onions to the National Onion Growers Cooperative Marketing Association, which had been authorized to import sufficient onions to supplement the local production. The latest delivery from this shipment was 15,000 bags made last October 1. "These deliveries," Manahan said, "might have been the basis of rumors that onions are being smuggled or released illegally."

The PCAC report pointed out that from September to the current date, 3,353 crates of onions had been released by the Bureau of Customs by court order upon filing of surety bonds, and 200 packages were ordered released by Customs upon redemption at appraised value by the consignees. A total of 2,744 crates of onions was still under seizure and was verified to be in proper storage at the Insular Cold Storage, the report added.

In the afternoon, the President received the Brazil-bound Philippine basketball team which called on him on the eve of their departure.

The President told the picked Philippine team that the eyes of the world would be focused on them as they take to the basketball court of Sao Paulo in a friendly competition for international supremacy in basketball.

In brief extemporaneous remarks the President exhorted the players to perform well on the basketball court and to show the highest spirit of sportsmanship. He added that the players would be the country's ambassadors of goodwill and they could do much to acquire new friends for the Philippines and add to the prestige and honor of the country.

The President said, "I wish you good luck, and may you bring home the bacon."

The team was accompanied to Malacañang by Solicitor General Ambrosio Padilla, who is chairman of the Brazil-bound delegation, and Coach Herr Silva.

**October 6.**—THE PRESIDENT received very few callers this morning because of the regular weekly Cabinet meeting scheduled at 10:00 a.m.

Professor William A. Scharffenberg, director of the international commission for the prevention of alcoholism, called to pay his respects following his recent arrival in Manila to consult with local leaders on the selection of Philippine representatives to the commission which is being organized in Washington. Accompanied to Malacañang by Drs. Claude Randolph, Robert C. Mills, and Juan D. Cristobal, board directors of the Manila Sanitarium and Hospital, Professor Scharffenberg requested the President for a brief message for publication in the magazine of the commission.

Scharffenberg informed the President that he had been publishing such messages from non-smokers or non-drinkers among the world's great leaders for the benefit of the young. He said that during his visit to the Philippines several years ago, he had tried to get President Magsay-say's message but that the President, who was then secretary of national defense, happened to be in the field personally supervising the Huk campaign.

Doctor Eliodoro Congco, director of the Family Clinic, a private dispensary in Manila, called to seek the assistance of the Chief Executive in connection with his desire to put up a 40-bed hospital in the Quirino District in Quezon City. Doctor Congco said that the PHHC would not permit him to buy a 15,000-square meter lot on which he proposed to build the hospital which would include a free ward for the district's indigents.

The President promised to take up the matter with the officials concerned.

Other callers included a delegation from Nueva Vizcaya headed by Gov. Jose Madarang and Rep. Leonardo Perez, Sen. Tomas Cabili, Reps. Justino Benito of Pangasinan, Roseller T. Lim of Zamboanga del Sur, Jose Aldeguer of Iloilo, and Emilio Cortez of Pampanga, and Mayor Leroy S. Brown of Basilan City.

The President presided over the Cabinet meeting which lasted from 10:30 a.m. to 12:30 p.m.

The President and the Cabinet at the regular weekly meeting this day appointed a committee to sit down with a counterpart group from the Indonesian Government to discuss the problem of Indonesian immigrants into the country.

Vice-President and concurrently Foreign Affairs Secretary Carlos P. Garcia told the Cabinet meeting that preliminary discussions of the problem between Philippine and Indonesian officials have succeeded in establishing an area of agreement in principle between the two governments.

Under this preliminary understanding, the Indonesian immigrants will be divided into three classes: (1) those who had entered the country before the war; (2) those who entered after the war and have been in the Philippines for not less than five years; and (3) those who have been in the Philippines for less than five years. The first two groups, Garcia said, will be given legal status as resident immigrants, while the last group, numbering 1,000, will be repatriated.

The Vice-President explained that the extension of the status of resident immigrants to the Indonesians will be merely in pursuance of Philippine immigration laws. Under these laws, illegal entrants who have stayed in the country for at least five years may be given the status of resident immigrants, provided they have not been convicted of any crimes.

The Vice-President said there was need of formalizing agreement with the Indonesian Government on this problem; hence, the Philippines had to appoint a committee to sit down with an Indonesian counterpart group for this purpose. Named chairman of the committee was Minister Mauro



Calingo with the following as members: Deputy Immigration Commissioner Francisco de la Rosa, Lt. Col. Mamerto Montemayor of the Department of National Defense, and Maj. Agapito Heredia, assistant intelligence chief of the Bureau of Customs.

At the same time, the Cabinet instructed Garcia to reiterate strongly the Philippine Government's demand on the Chinese Nationalist Government in Taipeh to accept more than 3,000 Chinese temporary visitors who have over-stayed in the Philippines. This reiteration was urged after Garcia had reported that Taipeh was willing to accept only those who have been convicted of crimes in the Philippines. Garcia pointed out this number was negligible and in effect it meant that the Chinese Government was not disposed to accept the bulk of overstayed Chinese.

The Cabinet meeting also pushed on President Magsaysay's P30-million-rice-buying program by approving the procedure for the buying of palay by municipal treasurers. The President instructed Finance Secretary Jaime Hernandez to direct the treasurers to begin buying immediately in places where harvesting has begun.

In the afternoon, the President was informed that the specific tax division of the Bureau of Internal Revenue had increased its tax collection for the fiscal year 1953-1954 by P26,133,463.16 over that of the fiscal year 1952-1953.

The President received Acting Internal Revenue Collector J. Antonio Araneta and all the division and assistant division chiefs of the Bureau of Internal Revenue to inaugurate a regular monthly *merienda* meeting to discuss the progress of the tax collection activities of the bureau.

During the meeting, Jose Aranas, chief of the specific tax division and head of the BIR-NBI tax investigating group, submitted to the President a report of the tax collection of his division. He reported that for the fiscal year 1953-1954, the total collection were P177,571,764.18 as against P151,438,301.02 for the preceding fiscal year, representing an increase of P26,133,463.16. Aranas added that the total collection for the fiscal year 1952-1953 was more by P17,506,618.17 than that of the preceding fiscal year which had amounted to only P133,931,682.85.

The sources of the collections of the specific tax division are alcohol, tobacco, narcotics drugs, and miscellaneous specific taxes.

The President was pleased by this report of increased tax collection and he told the revenue men to exert greater efforts in their work. He immediately approved a request of BIR Collector Araneta for the purchase of five jeeps and funds for their maintenance in order to intensify the collection of taxes in Manila and in the suburbs which, according to Araneta, contribute 72 per cent of the total taxes collected by his office.

As a result of the intensified collection activities of the Bureau, Araneta reported that now hundreds of automobile owners flock daily to his office to pay their taxes. He said that the next step will be the intensification of the collection of taxes from firearms owners.

President Magsaysay inquired from Araneta on the status of the Maria B. Castro (Madame X) case. Araneta said that her property would be sold on November 2. He said that the BIR had given her a chance to have her case reinvestigated in response to her appeal for the reduction of the amount of taxes but that she should pay the taxes due from her.

Araneta informed the President that the tax case of Madame X was now in the Court of Tax Appeals.

The President told the officials of the BIR that he was going to hold a regular monthly meeting with them to receive a progress report of their tax collections. The revenue officials who numbered 24 were headed by BIR Collector Araneta and Deputy Collector Silverio Blaquera. The President conferred with them from 4:20 p.m. to past 5 p.m. over *merienda*. After the *merienda*, he showed them around the Palace.

Earlier in the afternoon, at about 4 p.m., the President inducted into office the members of the newly created Asian Good Neighbor Relations Commission. Those who took their oath were Dr. Mariano V. de los Santos, chairman, and the following members: Miss. Helen Benitez, Modesto Farolan,

Nicolas Zafra, Joaquin Rocas, Felino Neri, Eugenio Puyat, and Claudio Teehankee. The oath-taking took place in the President's study room. Mrs. Tarhata Kiram-Salvador, another member, was not present at the oath-taking.

**October 7.**—**E**ARLY IN THE MORNING, the President conferred with Executive Secretary Fred Ruiz Castro on pending state papers.

The President signed the promotional appointments of 20 solicitors in the Office of the Solicitor General led by Guillermo E. Torres, who was named first assistant solicitor general. Four other ranking solicitors were made assistant solicitors general and 15 others were promoted in rank as solicitors.

Torres' promotion was occasioned by the recent appointments of former First Assistant Solicitor General Ruperto Kapunan, Jr., as district judge in Manila and former Assistant Solicitor General Inocencio Rosal as district judge of Negros Oriental. The other promotions were made in line with the government policy of promoting deserving public servants.

The newly promoted assistant solicitors general are: Ramon L. Avanceña, Jaime de los Angeles, Jose G. Bautista, and Esmeraldo Umali.

Those promoted in rank as solicitors are: Florencio Villamor, Adolfo Brillantes, Antonio A. Torres, Jose P. Alejandro, Isidro C. Borromeo, Federico V. Sian, Pacifico P. de Castro, Rafael Caniza, Juan T. Alano, Meliton G. Soliman, Mariano M. Trinidad, Felicisimo R. Rosete, Roman Cansino, Jr., Frine C. Zaballero, and Antonio Consing.

All these appointments are *ad interim* owing to the fact that Congress is not in session.

After going over some state papers, the President left Malacañang about 11 a.m. He was reported to have boarded the yacht *Pagasa* for a cruise in Manila Bay. He could not be contacted by newsmen for comment on Sen. Claro M. Recto's call for a categorical statement of the presidential position on the reparations issue.

**October 8.**—**P**RESIDENT MAGSAYSAY slipped unannounced into the Bureau of Customs this morning from his unannounced cruise in Manila Bay.

Accompanied by his aide, the President visited the office of Customs Commissioner Edilberto David. It was 9:30 a.m. and luckily for David, he was in his office.

The President went around the warehouses and inspected the impounded shipments.

"It's smelly in here," the President said. David blushed and, according to Customs newsmen, was paling and fidgety. Seeing his Customs chief apparently embarrassed, the President explained: "I am referring to the rotting onions, not to anything else."

The President was pleased with reports he received about David's work in the Customs Bureau. "You are doing fine, Commissioner," the President was heard to have told David. "I heard you don't observe any holiday. That is the Magsaysay way," he added. The commissioner was said to have winked his eye.

The President by-passed Malacañang, where the members of his Cabinet had convened to a special meeting, and proceeded northward to Camp Olivas in Pampanga, which is lorded by Brig. Gen. Manuel Cabal.

According to the *Philippine News Service* report, the President arrived "unannounced" at 11:45 in the morning. He congratulated Brig. Gen. Cabal and Maj. Jose Maristela, commander of the 6th BCT, for the killing of top Huk Commander of Pampanga, Camilo Lakanlale, *alias* Commander Digal.

According to the same report, he was scheduled to lunch with General Cabal and to motor to San Sebastian, in San Luis, Pampanga. It was not ascertained whether he reached those places.

The Cabinet in its special meeting this day took definite steps to prevent the entry into the Philippines of Communist-manufactured goods

and the consequent outflow of dollars into Communist-countries which could use the dollars to increase their war-making potential.

Acting upon a memorandum from the Department of Foreign Affairs, the Cabinet approved that in the Philippine trade with Hongkong, only those goods certified as of genuine Hongkong origin would be admitted into the Philippines. This certification will prevent entry into the Philippines of articles that are of North Korean and Red Chinese origin.

In the absence of the President, Vice-President Carlos P. Garcia presided over the Cabinet meeting which lasted from 10:30 a.m. to 12:15 p.m. However, Executive Secretary Fred Ruiz Castro informed the Cabinet members that the President was in full accord with the adoption of this measure.

The Cabinet in its special meeting also took further steps to increase the irrigation potential of the country by approving the implementation of the P12-million Agno River irrigation system in Pangasinan. It also approved:

(1) The renewal of the contract between the Luzon Stevedoring Co. and the Fertilizer Administration for another period, from January 1 to December 31, 1954, without public bidding, as an exception to the provisions of Executive Order No. 298;

(2) Philippine participation in the working party of experts on financial aspects of economic development in Bangkok from October 25 to 30, 1954;

(3) The sending of experts to attend the working party of senior geologists on the preparation of a regional geological map for Asia and the Far East and the first session of the subcommittee on mineral resources development to be held in Bangkok from November 1 to 6, 1954, and from November 8 to 13, 1954, respectively; and

(4) The request for special budgets of the Social Welfare Administration in connection with the survey of, and extension of assistance to, indigent farmers in rural areas and to evacuees sent to land settlement projects.

On the other hand, the Cabinet turned thumbs down on:

(1) The request for the lease or sale of property occupied by the NARIC on Azcarraga; and

(2) The request of the AFP chief of staff for a yearly \$200,000 allocation to be utilized by the AFP exchange system in importing non-military commodities from abroad for sale to the AFP personnel and their dependents.

The Cabinet stamped its approval on the implementation of the P12-million Agno River irrigation system which is a FOA-PHILCUSA project.

Public Works Secretary Vicente Orosa explained that the estimated cost of dollar supplies and equipment was \$1,169,000 which would come from Washington through a FOA procurement authorization. The peso requirements will cover six semesters of construction work starting from January 1955 to December 1957.

With the approval of the Cabinet, Secretary Orosa was authorized to request the Central Bank for the release of P4 million scheduled for expenditure during the first semester beginning January 1955. This will be followed by another release of P3 million in the second semester, P2 million in the third semester, and P1 million each in the remaining three semesters. The sum total would be P12 million.

**October 9.**—**E**NDING abruptly the "cooling-off period", the President returned to Malacañang this morning after a two-day sea and land cruise which took him to Manila Bay and Camp Olivas in Pampanga. The President decided to clarify his stand on the Garcia-Recto differences on the Japanese reparations question by designating Minister Felino Neri as chief negotiator for the Philippine Government and in-

vesting him with the rank of full ambassador. (See pp. 4747-4748, for the full text of the President's letter to Ambassador Neri.)

Upon his return to the Palace the President received French Minister Jean Brionval, who presented him with a leather portfolio, a gift from Minister Guy La Chambre, as a token of his appreciation for the hospitality accorded him during his brief stay in the Philippines as head of the French delegation to the Manila Conference of 1954. Minister Brionval also presented Mrs. Magsaysay with a bottle of perfume on behalf of Minister La Chambre.

At noon, the President and Mrs. Magsaysay gave a luncheon in honor of outgoing Ambassador and Mrs. Chen Chih-ping of Nationalist China, who are scheduled to leave Manila soon to report to the home office in Taipei for re-assignment.

In offering a toast for the Chinese ambassador who had served in the Philippines for the last eight years, the President said that Ambassador Chen not only had succeeded in furthering friendly relations between his country and the Philippines but had also been very cooperative in the promotion of local civic and social projects.

The President recalled that the Chinese community in the Philippines had contributed about P500,000 to the Peace and Amelioration Fund Campaign through Ambassador Chen. He expressed doubt whether he would have been so successful as secretary of national defense under the past administration without the substantial support of the local Chinese community through their enterprising ambassador.

"We hate to see you go, Mr. Ambassador, and we will miss you," the President told Chen. "But the spirit of cooperation which you have given us during the years you have been here will always be with us."

In response, Ambassador Chen expressed his gratitude for the friendship and hospitality which the Philippine Government and the Filipino people had accorded him throughout his stay here. He assured the President that he and members of his family had enjoyed their long stay "in this beautiful and hospitable country."

"For the last eight years, I have seen with my own eyes the long strides of progress this nation has achieved. The Filipino people is fortunate to have a strong leader whom they can depend upon during these uncertain times," Chen said.

Stating that he did not believe in peaceful co-existence between Democracy and Communism, Ambassador Chen said that democratic countries should either unite and fight together against Communist aggression or completely surrender to the common enemy.

He concluded his brief remarks by offering a toast for the continued success of President Magsaysay and for the progress and prosperity of the Philippine Republic.

The luncheon in honor of the Chinese ambassador lasted from 12:30 to 2 p.m. After the affair, the President had a conference with Vice-President Carlos P. Garcia, concurrently secretary of foreign affairs; Senate President Eulogio Rodriguez, Sr., Minister Felino Neri, Foreign Affairs Undersecretary Raul S. Manglapus, and Press Secretary J. V. Cruz.

Malacañang this day ordered the elimination of "red tape" in all processes and procedures by which the Government conducts business with the people. This step reflects President Magsaysay's concept of efficient government administration.

Acting on a long-standing common complaint against the Government, Executive Secretary Fred Ruiz Castro this day circularized heads of all government offices, urging them to do away with "red tape" which he termed cumbersome and time-consuming. Secretary Castro said that the "red tape" victimizes the citizen whom the government is supposed to serve and creates dissatisfaction against the government. He pointed out that this defect in the conduct of government business delays the carrying out of the programs and policies of the Administration. He said that "red tape" creates a tendency

on the part of the people transacting business with the government "to go outside regular channels, using influence and other similar means to achieve their desired ends."

In his memorandum circular to all chiefs of government offices ordering the elimination of "red tape", the Executive Secretary indicated the evil could be overcome. (See pp. 4135-4136 of the August 1954 issue of the *Official Gazette*, for the full text of the memorandum circular.)

**October 10.**—**P**RESIDENT and Mrs. Magsaysay left Malacañang at 8:45 this morning and motored to Los Baños, Laguna to attend the 36th Loyalty Day celebration of the UP College of Agriculture.

Upon arrival at Los Baños, the President was met by officials of the University of the Philippines led by UP President Vidal A. Tan and Dean Leopoldo Uichangco of the College of Agriculture.

Before the program at the Baker Memorial Hall of the agricultural college, the President reviewed a very impressive Loyalty Day parade participated in by students of the College and the UP ROTC cadets. The President was very much impressed by the various breeds of cattle and carabaos and pigs which took part in the parade. There were also floats depicting the President's program of providing the barrios with artesian wells, improving living conditions in the rural communities, and giving importance to agricultural development.

Speaking before a large crowd gathered at the Baker Memorial Hall after the parade, the President underscored the importance of building democracy in the farms while protecting at the same time the basic freedoms from the threats of Communist subversion. The President said:

"Today again we face the challenge of freedom versus slavery. Again throughout the world, free societies must defend themselves against the aggression of a new would-be world conqueror—Communism."

In stressing the importance of dedicating his administration to the farms, the President said "political democracy is well rooted among our people, but it must have the nourishment of economic democracy if it is to survive." He deplored the fact that "centuries of neglect have left many of our farming communities in the grip of inertia, victims of all the evils of under-employment, low production, and low income."

"The farm is one of the decisive arenas of our struggle to raise living standards. The future of this administration—perhaps even the fate of the Republic—will largely depend on what happens or does not happen in our villages," the President stressed in his speech. (See *Historical Papers and Documents*, pp. 4748-4752, for the full text of the President's speech.)

The President was introduced by UP President Vidal A. Tan. Among high ranking officials at the Loyalty Day celebration were Reps. Wenceslao Lagumbay of Laguna and Erasmo Cruz of Bulacan, Gov. Dominador Chipeco of Laguna, FOA Chief Harry Brenn, and PHILCOA Manager Benjamin Salvosa.

After addressing the Loyalty Day celebration, the President immediately returned to Manila.

In the afternoon, the President went to Fort McKinley for another horse-riding relaxation. He returned to Malacañang in the evening.

The President this day took steps to prevent violence and bloodshed in the Mangabul Fisheries in Bayambang, Pangasinan, by approving a Cabinet decision on the matter.

In a letter sent to Bayambang Mayor Eligio Sagun, Executive Secretary Fred Ruiz Castro, acting by authority of the President, directed that pending final action on the disposition of the area in question, the tenants be allowed to harvest their produce. The mayor was also directed to stay any action which the local government was contemplating to take against the actual occupants.



This directive, however, was subject to the condition that all revenues derived from these fisheries be held as trust fund by the municipality, and the presidential directive did not directly or indirectly imply a recognition of the right of the occupants to the fisheries. Meanwhile a committee will be formed to draft legislation to be recommended to Congress to solve once and for all this problem.

The Mangabul Fisheries dispute was brought to the attention of PCAC Chairman Manuel Manahan, who was requested to intercede in behalf of the tenants. The fisheries comprise an area of some 1,620 hectares in barrio San Gabriel, Bayambang, Pangasinan, whereon some 300 tenants are settled.

By an old act, Act 4041, this area was made a fisheries reservation. In the course of time, however, the yearly inundations of the Agno River deposited soil in this area to such an extent that the greater part of it was no longer adaptable for fisheries but for farming.

Consequently, the tenants began cultivating the land and planting it to rice. They also considerably improved the area and made representations to allow them to remain on it and to continue farming.

What complicated the situation was that the late Paulino Reyes, formerly deputy public lands inspector assigned in Dagupan, had issued patent applications to the settlers there, giving them the false impression that they had legal right to ownership and possession of the land they were tilling. This act was not held legal.

Lately, the PCAC was informed by the tenants that by the authority of the Bayambang mayor, one Marcelo Payumo, together with three policemen and five bodyguards, had harvested palay in the area on October 4, 1954, without the knowledge and consent of the planters, contrary to the request of the director of lands, who had asked the mayor to maintain the status quo in the premises. This further angered the tenants who petitioned the PCAC for help and denounced the mayor for noncompliance with the lands director's letter.

PCAC Chairman Manahan had the case investigated and later made representation with the Cabinet in its special meeting last Friday.

**October 11.**—**E**ARLY in the morning, the President motored to Our Lady of Sorrows Church in Quezon City to act as sponsor at the wedding of Cory Cojuangco, daughter of Mr. and Mrs. Jose Cojuangco, and Benigno Aquino, Jr., son of Mrs. Aurora Aquino and the late Benigno Aquino, Sr.

Shortly after attending the wedding reception held at the Winter Garden of the Manila Hotel following the church rites, the President, about 10 a.m., took to the air on a flying trip to the typhoon-stricken areas in the Cagayan Valley.

The President was accompanied by Social Welfare Administrator Pacita Madrigal-Warns, Public Works Secretary Vicente Orosa, Health Secretary Paulino Garcia, Hospitals Director Tranquilino Elicaño, Public Works Director Isaias Fernando, and Brig. Generals Eulogio Balao, Pelagio A. Cruz, and Manuel Cabal.

Upon landing at Tuguegarao about 11:40 a.m., the presidential party was met by Gov. Jose Carag, District Engineer Ladislao Tolentino, District Health Officer Pio Laowengco, Lt. Col. Sisenando Silvestre, Lt. Col. Romulo Villafior, and Maj. Cecilio Peñaflor of the 11th BCT.

From Tuguegarao, the President and his party motored to Cauayan, Isabela, passing through towns which had suffered most from the ravages of typhoon *Nancy*. The President stopped at the town of Tamawini and dropped in at the municipal building, where a big number of typhoon victims had gathered to get their relief rations. The President was informed that the towns worst hit by the typhoon were Cauayan, San Pablo, Palanan, Cabagan, and Tamawini, where some 1,000 families had suffered property losses.

SWA Administrator Warns told the President that her office had already dispatched 200 sacks of rice, 100 cases of sardines, 125 cases of pre-mix rice, and 15 sacks of mongo as relief goods to the stricken people. Tamawini Mayor Vicente Ferrer immediately came down the municipal building upon learning of the President's arrival and thanked the Chief Executive for the immediate succor extended to his people. On his request, the President told Secretary Orosa to release P2,000 for the repair of the town's central school and P1,000 for the repair of the barrio school of San Andres.

At the Cauayan CAA station, where the presidential party had its lunch at 2:30 p.m., the President received the report from Dr. Arsenio Tiongson, district supervisor of Northern Luzon of the Philippine National Red Cross, that Red Cross personnel had been assigned to the area to administer relief. From Dr. Laowengco the President received the report that there was no resulting epidemic in the stricken area.

The President was informed by Brig. Gen. Cabal that three army engineers had been dispatched to the region to help in the reconstruction of private houses, school houses, and roads. The President told Cabal to stay behind and supervise in the reconstruction work in cooperation with the field men of the Bureau of Public Works.

Regarding the peace and order situation, the President was informed that eight bandits had been captured the night before and that seven guns had been surrendered. The overall situation was described as normal.

The President was pleased with the progress of the road construction in the region. He noted that 15 kilometers of the 80-kilometer road connecting Tuguegarao and Ilagan had already been asphalted. He praised Secretary Orosa, Undersecretary Paraiso, and Director Fernando for their work. He said that the national highway connecting the provinces of Cagayan and Isabela was much better now than when he traveled over it during the last presidential campaign.

The presidential party took off from the Cauayan air station about 3:15 p.m. and arrived in Manila about 4:10 p.m.

During the President's flight from Manila to Tuguegarao in the morning, the President in a directive issued to Health Secretary Paulino Garcia ordered separated the combined offices of dean of the UP College of Medicine and director of the Philippine General Hospital. The directive was an implementation of the report of the Garcia committee which had held hearings on the advisability of splitting the directorship of the PGH from the deanship of the UP College of Medicine.

The President told Secretary Garcia to look for a new man to replace Dr. Agerico B. M. Sison as director of the PGH. It was held likely that Dr. Sison, present PGH director and dean of the UP College of Medicine, would retain his position as dean.

In making the decision, the President said that he had been guided by the desire to enable the people to draw maximum benefits from the PGH. He said that the job of hospital director is a full-time executive job and that he did not want the hospital director to be overburdened by another full-time assignment as dean of the college of medicine of the State University.

**October 12.**—**A**FTER breakfast with his family, the President received Defense Secretary Sotero Cabahug and then proceeded to his executive office where he received several callers.

Then, after a brief conference with Gov. Wenceslao Pascual and a group of Rizal provincial officials, the President recommended to the RFC the granting of a P431,000 loan to the provincial government of Rizal for the expropriation of some 74 hectares of land in Malabon and Caloocan where squatters are presently situated. Known as the San Diego Estate, the land would be expropriated by the provincial government of Rizal.

The President also issued a directive to Public Works Secretary Vicente Orosa to release P60,000 for the irrigation system in Carmona, Cavite, at the request of Sen. Justiniano S. Montano. The amount would come from the President's contingent fund. The irrigation system is necessary for the dry season rice crop, the President said.

NARIC General Manager Juan O. Chioco, Assistant General Manager Vicente Concepcion, and Board Member Maximo Calalang called on the President to report on the success of their recent rice survey trip to Thailand. They told the President that 5,000 tons of rice from Thailand would be ready for unloading the next day, October 13. It would be sold to the public at P.65 or P.70 a ganta beginning October 14.

The President enjoined the NARIC board members to provide indigent people throughout the country with rice at lower price through ration system from the office of the municipal treasurer of each town. Coupon cards would be issued to indigent people designed to prevent low-cost rice from falling into the hands of people who could afford to buy rice at public prices.

Chioco brought with him a gift of one ton of 100 per cent Thailand white rice to President Magsaysay from Prime Minister P. Philsonggram of Thailand. Chioco handed to the President a letter from the Thailand prime minister.

Other NARIC officials who saw the President were Board Members Conrado Estrella, Col. Osmundo Mondoñedo, and Col. Jacinto Gavino.

The President also received a delegation of officials and employees of the MRR which presented him with a check for P2,000 for the peace and amelioration fund campaign.

The P2,000 check, which represented voluntary contributions from MRR officials, employees, and laborers, was handed to the President by Felix Salen, president of the Railroad Conductors' Union and member of the MRR board of directors.

"This contribution has a special significance to me because most of it came from the poor railroad laborers," the President said as he accepted the check.

Accompanied by Col. Salvador Villa, MRR general manager, the delegation included Capt. Andres O. Hizon, board chairman; Francisco Silvestre, president of the Employees' Union; Moises Elauria, president of the United Labor Unions; Jose Capistrano, president of the Union de Maquinistas; Federico Ibarra, president of the Railroad Engineering Department Union; and Florencio Unson, administrative officer.

Acting Mayor Jose V. Coruña of Bacolod City also presented the President with a check amounting to P3,500 as partial contribution of the city for the peace fund and anti-TB fund drives. Mayor Coruña was accompanied to Malacañang by Rep. Carlos Hilado of Negros Occidental.

Officials of the Peace and Amelioration Fund Campaign headed by Manuel Elizalde, chairman, called to report on the progress of their fund drive. During the call, the President awarded Federico Elizalde, chairman of the "Lady be Good" committee, with a certificate of merit for the success of the play shown at the FEU auditorium for the benefit of the drive.

Mrs. Adela Planas-Paterno, co-chairman of the Benefits Division of the PAFC, informed the President that a country fair would be held at Malacañang Park from October 29 to 31. The first night of the fair would be Patrons' Night with President and Mrs. Magsaysay heading the list of patrons, Mrs. Paterno explained. The second night would be Coronation Night when a *Mutya ng Pilipinas* would be crowned, and the last night would be Halloween Night.

Other PAFC officials who were at Malacañang this morning were Yu Khe Thai, Francisco Rodrigo, Charito Vergel de Dios, Nena del Rosario, Mrs. Chiming Hernandez, Manuel Nieto, Jr., Philip Ismael, Jose Corominas, Basilio Hernandez, and Amparo Villamayor.

Omer Becu, president of the International Confederation of Free Trade Unions, called to pay his respects. He was accompanied by Jacobus H. Ol-

denbroeck, ICFTU general secretary; Dyhan Mungat, regional secretary for Asia; Cipriano Malonso, president of the Philippine Trade Union Councils; Jose J. Hernandez, PTUC general secretary; Vicente Aruego, vice-president; and Cipriano Cid and Roberto Oca, executive board members.

During their call, the labor leaders took the opportunity to express their opposition to the proposed reduction of the minimum wage of P4 a day provided by law. The President said that the matter was being carefully considered.

Rep. Felix A. Fuentebella of Camarines Sur requested the President for P95,000 for the waterworks of Tigaon in his province.

Members of the Liquidation Committee headed by Filomeno Kintanar reported on the progress of its liquidation work on abolished government corporations, including the LASEDECO. Other members of the committee who called were Deputy Auditor General Pedro M. Gimenez and Frisco San Juan.

A large delegation from Guimba, Nueva Ecija, headed by Mayor Arsenio Padre also sought the President's assistance for a proposed irrigation project in their town. The group was accompanied by Rep. Jose Corpuz of Nueva Ecija.

Other callers in the morning included Sens. Tomas Cabili and Macario Peralta, Jr.; Reps. Jose Aldeguer of Iloilo, Serafin Salvador of Rizal, Panfilo Manguera of Marinduque, Apolinario Apacible of Batangas, Wenceslao Lagumbay of Laguna, and Isidro Kintanar of Cebu; and Gov. Juan Alberto of Catanduanes, who took up with the President public works project in his province.

The President this day appointed a committee to investigate charges and counter-charges between Herman Warns, acting general manager of the Manila Gas Corporation, and Maximo Pleno, production superintendent.

Pleno has been accused of attempted sabotage of the plant and facilities of the Manila Gas Corporation. According to the charges, he had threatened and planned to blow up the plant. He has been suspended by the corporation's board of directors.

On the other hand, Pleno has filed counter-charges against Warns for incompetence, nepotism, negligence, violation of labor laws, abandonment of the government's interest in favor of his own personal interests, failure to lower utility rates in line with the Administration's policy, purchasing bunker oil without the required public bidding, failure to investigate losses of life and property in the corporation, and failure to formulate a sound collection system resulting in losses to the corporation.

The President named Col. Francisco Licuanan, who is a mechanical and electrical engineer, chairman of the committee. Members are Enrique Fernando, Luis Lim, and Francisco Ortigas, Jr.

At 3 p.m., the President slipped out of Malacañang for an undisclosed place for a much needed rest. He returned to the Palace in the evening.

**October 13.**—**E**ARLY this morning, the President received a group of Senate reporters and radio announcers who called at Malacañang to pay their respects prior to their departure for Japan. Scheduled to leave Friday, October 16, the group included Luis Serrano of the *Manila Times*, chief of the goodwill mission, Vicente Tanedo of the *Daily Mirror*, Pedro Mangahas of the *Mabuhay*, Miguel Roxas of *El Debate*, and Bernie Silverio of DZBB.

After receiving the newspapermen, the President motored to the Bureau of Posts for a surprise visit. Arriving at the Bureau unannounced about 8:20 a.m., the President proceeded directly to the ground floor of the building and took the employees by surprise. Many of the employees were busy working when the President arrived.

The Chief Executive went around talking to employees and inspecting the different sections for almost 30 minutes. He was joined by Public Works Secretary Vicente Orosa, Undersecretary Juan G. Paraiso, Director of Posts

Juan Ruiz, and Assistant Director Enrique Palomar, who were informed that the President was at the Bureau.

The President counselled the temporary employees to work harder if they wanted to be retained. The 800 temporary employees for whose sake the President said he would release P400,000 for salaries, had been employed by the Bureau of Posts in Manila, Quezon City, and other places to cope with the increasing volume of mail. The President brought to the attention of the section chiefs complaints that several letters and parcels were getting lost. He said greater care should be taken in the handling of letters and packages.

Turning to Undersecretary Paraiso, the President asked about the progress of the government highway projects. Paraiso told the President that aside from Cagayan, road asphaltting and bridge constructions had already started in Laguna, Tarlac, and Zambales.

The President returned to Malacañang at 9 a.m. and received visitors.

Charles Robert Burrows, new U. S. Minister to the Philippines, paid a courtesy call on the President. The new minister who took over the position of William S. B. Lacy was accompanied by Ambassador Raymond A. Spruance.

Judge John W. Haussermann, mining magnate, reported to the President about the strike in the Masinloc mines, which had been dragging on for quite a long time.

Dr. Allan Gibson Brodie, dean of the College of Dentistry of the University of Illinois, also paid a courtesy call. He was accompanied by officers of the Federation of Dental Practitioners of the Philippines. Dr. Brodie is scheduled for a lecture and demonstration tour here.

A group of Jaycees, headed by Jaycee President Emilio Mutoc and Roberto Villanueva, called on the President. An Indonesian painting was presented to the Chief Executive as a gift by the Indonesian charge d'affaires to the Philippines, Mr. Tjokroadisumarto.

Other morning callers included Sens. Emmanuel Pelaez and Justiniano S. Montano.

The President presided over the regular meeting of the Cabinet which lasted from 10:30 a.m. to 12 noon. At the Cabinet meeting the President approved salary increases for the MWD officials and employees effective retroactively on January 1 last.

The raises were the result of a study undertaken by a special presidential committee to determine whether the company could afford them. The committee was named by the President when he successfully mediated a strike at the MWD at the beginning of his term of office. The group reported that the company could support the increases.

The President also instructed Central Bank Deputy Governor Andres Castillo to begin selling bonds immediately to finance further work on the Ambuklao hydroelectric projects. The President directed Castillo to sell P12-million worth of bonds.

The Cabinet withheld approval of a request for P700,000 sought by the NASSCO to finance further improvements on the shipyard, pending an ocular inspection of the plant by the Cabinet members.

Accompanied by Mrs. Magsaysay and department secretaries, the President left Malacañang after the regular weekly Cabinet meeting this noon and motored to Pier 7 to watch the unloading of 5,000 tons of rice imported from Thailand aboard a Danish vessel, *Johannes Maersk*.

Under the heat of the noonday sun, the President and the First Lady stood at the pier for about 15 minutes watching stacks of rice sacks unloaded into army trucks which would convey the cargo into NARIC bodegas.

On invitation of H. V. Johansen, the Danish consul in Manila, and F. M. Chalmers, shipping manager of the Tabacalera, local agents of the vessel, the President and members of his party boarded the ship and had lunch at the ship's salon.

The President had some boiled rice brought over from Malacañang. The boiled rice, however, was actually only two-thirds rice and one-third corn,



which he and members of the Cabinet ate heartily. The President hoped to popularize the rice-and-corn recipe (RICO) among the people as a means of providing a more healthful and economical staple food for the masses.

During lunch, NARIC officials headed by General Manager Juan O. Chioco informed the President that the first 10,000 tons of the 50,000 tons of rice imported from Pakistan were expected to arrive in Manila before the end of this month. Conrado Estrella, member of the board of directors, expressed the hope that the 5,000 tons of newly arrived Thai rice consisting of about 100,000 cavans, would last until the arrival of the next shipment.

After lunch, the President was shown around the 10,000-ton freighter by Capt. K. K. Schulz, the ship's master. He and the First Lady returned to Malacañang shortly before 2 p.m.

The President this day took a direct hand to stop the increasing number of deaths and injuries caused by motor vehicle accidents.

Alarmed by the rising number of serious road mishaps, the President directed the Public Service Commission to enforce existing motor vehicle laws and Commission regulations. He expressed grave concern over the motor vehicle tragedies as reported by the local press. The latest of these serious accidents was that in which a bus carrying U. P. students crashed, resulting in the death of one student and injuries to several others.

In his letter to the public service commissioner, the President asked the commissioner "to consider and study this problem in earnest so that it may be able to marshal its resources and, compatible with existing laws and rules and regulations of the Commission, exert real efforts to minimize, if not altogether do away with, such frequent motor accidents."

The President added that the frequency of these motor accidents in a way constituted a "reflection on our ability to enforce, not only the minimum prescribed requirements for public utilities but also the motor vehicle laws and the rules and regulations of the Public Service Commission governing the conduct of such public utilities."

The Chief Executive told the Commission that in carrying out the presidential directive, it was authorized to enlist the assistance of all government offices and agencies concerned with the control of traffic in the country and private national motor associations, so that it might be possible to concentrate combined efforts on the solution of this important national problem.

The President told the public service commissioner to submit to him periodic progress reports of its efforts in minimizing motor accidents.

On recommendation of the Board of Pardons and Parole, the President granted this day conditional pardons to nine prisoners.

**October 14.**—**T**HE CHIEF EXECUTIVE followed a heavy schedule this morning. He received callers from 8:30 a.m. to 2 p.m.

The President started his busy day in Malacañang by administering the oath of office to former Rep. Remedios Fortich as member of the NARRA board of directors.

The President also inducted officers of the Society for Public Administration of the Philippines, a newly-formed organization composed of government officials and employees. Inducted were Faustino Sy-Changco, president; Ruben Ledesma, vice-president; Jose V. Abueva, secretary; Dolores T. Yatco, treasurer; Amando Maglaque, auditor; Ignacio Coloma, PRO; and the following members of the board of directors: Vicente Coloso, Jose Eres-tain, Honesto Mendoza, Jesus C. Perlas, and Francisco Trinidad.

Mr. and Mrs. Virgilio Hilario (nee Armi Kuusela) also called to pay their respects prior to their departure for abroad. The couple informed the President that they would be away for sometime as they intended to visit Finland, Canada, and the United States.

The President asked the couple to act as ambassadors of good will for the Philippines in the countries they would visit. He requested Hilario to make a study of cooperatives in the Scandinavian countries so that the government might profit by the successful experience with cooperatives of these European nations.

A delegation from the *Taliba Ng Inang Wika* headed by its president, Lope K. Santos, suggested the reorganization of the Institute of National Language to make it a more effective agency for the propagation of Tagalog. The group also presented the President with copies of some Tagalog books such as *Florante at Laura* and *Panitikan Ng Pilipinas*.

Another delegation from Sta. Rosa, Laguna, headed by Mayor Apolinario de Guzman requested financial assistance for the completion of the town's puericulture center, the construction of which had been started with public contributions.

Charles B. Love and Walter B. Berzin of the Chemical Bank and Trust Company of New York called to pay their respects following their recent arrival here in the course of a business tour of the Far East. They were accompanied to Malacañang by Sixto Orosa, executive vice-president of the Prudential Bank, and Bert Villanueva of the *Manila Chronicle*.

Meanwhile, President Magsaysay today granted conditional pardons to three prisoners upon the recommendation of the Board of Pardons and Parole.

President Magsaysay said today that he would set up a retailers' credit section in the Rehabilitation Finance Corporation to attend especially to the credit needs of small Filipino retail merchants who often fall victims to unscrupulous money lenders in their efforts to obtain sufficient capital.

During the call this morning of the first batch of graduates of the newly-formed adult education class in Retail Merchandising of the Philippine College of Commerce, the President deplored the despicable activities of usurers who prey upon small Filipino businessmen to whom they loan money at unreasonable rates of interest.

With the creation of a special office in the RFC to process loan applications for Filipino retailers under relaxed loan conditions, the President hoped to provide these small businessmen with sufficient capital to keep their businesses going and operating successfully side by side with their alien competitors.

Accompanied to Malacañang by Luis F. Reyes, PCC president, the graduates presented the President with a check for P300 as their contribution to the Liberty Wells fund drive. They also presented a resolution expressing their support of the Administration.

In the course of their call, the graduates of the adult class who already had business establishments of their own, brought to the attention of the President some of their pressing problems, such as refrigeration of foodstuffs, prevalence of fake importers acting as middlemen, and pilferages said to be rampant in a number of markets in Manila.

The President advised the retailers to organize themselves into cooperatives to enable the Government to help them financially so that they could undertake importations themselves from foreign countries. He said that the retailers would benefit more if they imported directly instead of through middlemen.

The President this morning issued Administrative Order No. 68, suspending Antonio G. Isip from office as assistant fiscal of Manila following the establishment of the latter's guilt on charges of prejudicial negligence and discourtesy. It was found out that Isip had been negligent in the performance of his duty, which neglect resulted in the detention of a woman and her sick six-month old child in jail for a week.

Investigation also revealed that Isip on several occasions had avoided meeting a complainant in another case assigned to him. It was moreover found out that Isip was once reprimanded by a judge for showing indifference in a case he was handling.

In suspending Isip, the President said that the respondent fiscal should know that "there is more than the legal aspect involved in a criminal case. The public has a right," the President continued, "to expect attention from a public servant and in this respect, the respondent has been found wanting."

Isip was suspended without pay for a period of one month. He was further admonished and reprimanded to be more careful in the discharge of his duties, as a repetition of similar acts would be dealt with more severely.

The three members of the special House of Representatives Committee on Mindanao and Sulu recommended to President Magsaysay at a luncheon conference this noon that the Armed Forces be given every opportunity to prosecute and finish the Kamlon campaign in Sulu in order that the economic development of that province and the Mindanao region as a whole may be resumed and accelerated upon the restoration of peace.

Chairman Domocao Alonto (Lanao) and Members Ombra Amilbangsa (Sulu) and Luminog Mangelen (Cotabato) denied that they were for appeasement of the Moro bandit chieftain, pointing out that the Government had to be respected and the only way this could be achieved was to carry through the campaign against Kamlon to a successful conclusion.

The committee members, who had just returned from a survey trip to Mindanao and Sulu, presented a preliminary report containing recommendations based on their study and supplemented this with some verbal recommendations made in the course of the luncheon meeting. They were accompanied to Malacañang by Acting Speaker Daniel Z. Romualdez.

In pressing for stepped up prosecution of the Kamlon campaign, they pointed out that land taxes in Sulu have not been paid since the Moro bandit chieftain's depredations laid waste to farmlands and harassed the farmers. President Magsaysay told the committee he was sending immediately for Sulu Governor Leon Fernandez to take up with him and Rep. Amilbangsa this problem and others related to the Kamlon campaign.

Cotabato Rep. Mangelen, with the concurrence of his committee colleagues, also recommended to the Chief Executive the appointment of an Armed Forces officer as governor of Cotabato in order to intensify the peace campaign in that province, with particular emphasis on the collection of loose firearms. The committee asked the President to choose from any number of competent and qualified officers among the Filipino Moslems for the position. In this connection, the group also urged the reactivation of more Filipino Moslem officers for assignment to the Mindanao and Sulu area.

President Magsaysay and acting Speaker Daniel Z. Romualdez agreed today to send a joint executive-congressional committee all over the country to study the problem of the minimum wage law.

This agreement was reached in the course of a luncheon-conference between the President and the special House Committee on Mindanao and Sulu, at which Speaker Romualdez was present.

Under the plan, the committee will be composed of one senator, one representative, another representative representing Filipino Moslems, and a representative of the executive department. The group will hold hearings throughout the country with the view to determining the desirability of re-examining the minimum wage law.

Both the Chief Executive and the acting Speaker agreed that the minimum wage problem deserved the most earnest study and consideration in view of its effects on the nation's economy. They said it was essential to find out conclusively whether it had advanced or retarded economic development and progress.

Agriculture Secretary Salvador Araneta reported to the President this day that his department has launched an intensive and extensive information campaign aimed at acquainting the country's farmers, particularly in the remote rural areas, with the Administration's price support program for palay and thus prevent them from selling their palay at less than P8.50 per cavan for *macan ordinario*, Manila price.

Araneta told the President the information campaign was being spearheaded by the Bureau of Agricultural Extension and the Office of Agricultural Information. He said the objectives was to appraise the farmers of the guarantee of a floor price for their palay by the Government.

Araneta said the NARIC and the municipal treasurers have started buying in places where the harvest season has begun. Under the floor price system, the Government will buy palay at the rate of P8.50 for *macan ordinario*, minus the cost of transportation from the buying area to Manila.

In no case, however, Araneta stressed, will the farmer receive less than P7.00 per cavan for his palay.

The Administration has made P30 million available for the price support program.

**October 15.**—**T**HE PRESIDENT began the day's work in bad temper after learning that Makati (Rizal) Mayor Jose D. Villena, whom he reinstated only last Saturday, has a conviction on appeal to the higher court. He dictated a letter for Executive Secretary Fred Ruiz Castro directing Villena's re-suspension, on the strength of his conviction for falsification of public documents.

It was learned that the President blew his top for not having been informed of all the facts before the reinstatement papers were brought to him.

In a directive to Secretary Castro, the President said that "after Mayor Villena's reinstatement, pursuant to my order, my attention was called to the fact that the Mayor has been convicted by the Court of First Instance of Rizal, for falsification of public documents."

Mayor Villena's conviction is now pending decision on appeal by the Court of Appeals. The Court of First Instance of Rizal imposed on the mayor a sentence of from eight years, eight months, and one day to nine years and four months and one day and a fine of P3,000.

The President explained that "the interests of the public will be served better if Mayor Villena remains under suspension, pending the final disposition of the criminal case against him for falsification of public documents."

The President reiterated this day his policy of recognizing the rights of civil service employees in the government to be secure in their jobs and not to be suspended or removed from their positions without just cause.

In the course of his conference with a number of congressmen who called at Malacañang in the morning to recommend some of their political proteges for certain positions in the government, the President said that civil service regulations must be respected and warned against harassing permanent employees for purely political considerations.

"I did not want that to happen to me when I was an underdog," the President said. "I don't want to do that to other people now."

The Chief Executive assured that he wanted very much to extend assistance to some people who had worked hard for his party during the last elections. Such assistance should not, however, be given at the expense of officials and employees who might have served the government faithfully 10 to 20 years, he said. "I don't want to be placed on record as a persecuting President," he said. "I would like to assure security for all government personnel and members of their families under my administration."

After breakfast, the President proceeded to his executive office where he received callers. His first callers were Clifton Kroll, president of the Atkins, Kroll and Co.; Theodore Ward, general manager of the Taylor Pacific (Philippines), importers and exporters of Remington Rand equipment in San Francisco, California, U. S. A.; and Victor Smith, local head of the Atkins, Kroll and Co.

Clifton Kroll praised the President for the Administration's policy of not devaluating the peso. He talked with the President for 20 minutes.

The President this noon received Jose Arañas, chief of the BIR-NBI group, who submitted his third list of tax re-assessments totalling P2,191,125.64 in internal revenue taxes, surcharges, and penalties from 30 companies and individual taxpayers. The amount represented an accumulation of collectible taxes from these tax-payers from 1946 to 1953.

The amount found collectible from each party ranged from P74 to P1,295,686.50. This latest BIR-NBI report brought to a total of P7,027,048.86 the aggregate amount found collectible by the group since its creation last July 10.

Explaining the investigation activities of his group, Arañas said in his report that the major portion of the assessments had been arrived at by using the so-called "application of funds" or "cash analysis" and "net worth" methods of proving unreported taxable incomes, which methods, Arañas said, had hitherto been rarely availed of.

Arañas predicted that in due time, the impact of the present special tax drive would be felt in the provinces after the areas of potential tax frauds were identified and the group's investigators properly deployed.

The President followed another heavy schedule of callers this morning. He received visitors at his executive office continuously from 8:30 a.m. to 1 p.m.

A large delegation of women representing some 19 civic organizations in Quezon City requested financial assistance for the construction of health centers in the city. The group was headed by Mrs. Norberto Amoranto, president of the Quezon City Ladies' Association.

Another delegation of Cebu City officials requested P200,000 for a river control project which, the officials said, was badly needed to keep residential districts and the market place in the city from being inundated from time to time. The Cebu officials were accompanied by Rep. Pedro Lopez.

Officers of the Philippine Chamber of Industries called to invite the President to be guest of honor at a luncheon to be held at Manila Hotel on October 22, on the occasion of Industrialists' Day commemorating the 7th anniversary of the PCCI.

Headed by P. E. Domingo, PCCI president, the group included Jovino S. Lorenzo, executive vice-president; Teofilo Reyes, Jr., 2nd vice-president; A. B. Isip, executive secretary; and the following newly-elected members of the board of directors: Hernando E. V. Sison, Dalmacio Suaco, J. N. Morales, E. V. Mendoza, Domingo Guevarra, and Roberto Villanueva. The new board which had been elected at a meeting Sunday, October 10, also pledged continued cooperation of the chamber with the Administration, particularly in the promotion of new industries.

Jose F. Zamora sought the President's assistance in his desire to import new cars for his taxicab company in view of the total ban on car importations by the Central Bank. Zamora explained that his company had been using 1946 models and would like to purchase some of the latest models to minimize accidents and give better service to the riding public.

Mr. and Mrs. Carlos de Lara called to present a scrapbook of newspaper clippings on the President's activities since he assumed office last December 30 up to his birthday on August 31.

Commerce Secretary Oscar Ledesma and Economic Coordination Administrator Alfredo Montelibano consulted the Chief Executive on matters pertaining to their respective departments.

Chester A. Baird and R. Richard Roberts of the General Partner, Baird & Co. of Ohio called to pay their respects.

Other callers included Senator Tomas Cabili, Reps. Ricardo Y. Ladrado and Rodolf Ganzon of Iloilo, Manuel T. Cases and Francisco Ortega of La Union, Paulino A. Alonzo of Cagayan, Vicente L. Peralta of Sorsogon, Carmen Dinglasan-Consing of Capiz, Rogaciano M. Mercado of Bulacan, and Gov. Federico Castillo of Mindoro Occidental.

In order to give impetus to scientific endeavors, the President this morning proclaimed the period from November 21 to 27 as Philippine National Science Week and created a committee to take charge of the observance.

According to the President, the five-year economic development program of the government "will depend to a great extent upon contributions of science and scientists." He also said that he would work for the development of satisfactory media for the exchange of ideas concerning new methods and techniques to enhance scientific education in the Philippines.

Designated members of the committee to take charge of the observance of Science Week were: Agriculture Secretary Salvador Araneta, chairman; Health Secretary Paulino Garcia, Education Secretary Gregorio Hernandez, Jr., Economic Coordination Administrator Alfredo Montelibano,



the chairman of the National Research Council of the Philippines, the director of science and technology, and the president of the Philippines Association for the Advancement of Science, members.

In the afternoon, the President received Maj. Gen. James Gavin, U. S. Army G-3 chief, who paid a courtesy call. He was accompanied by Maj. Gen. Robert M. Cannon, JUSMAG chief. In the course of the courtesy call, the President took up military matters with Gavin and Cannon.

Gen. Gavin told the President that he had been stationed in Camp Stotsenburg some 16 years ago. The President said that he was glad Gavin knew about the Philippines.

Gavin was formerly commanding general of the 82nd Airborne Division that landed in Normandy in World War II, before allied forces established a beachhead. He also led the landing behind enemy lines in Holland. He is assigned to the Pentagon, Washington, D. C., and at present is on a tour of the Far East. He arrived in Manila this afternoon and was immediately accompanied to Malacañang by Gen. Cannon.

After the call which lasted from 5:15 to 5:30 p.m., the President went over state papers.

**October 16.—****P**RESIDENT and Mrs. Magsaysay slipped out of Malacañang in the morning for a week-end rest in Zambales.

The Administration's drive for integrity in the public service claimed another erring public official this day when President Magsaysay issued Administrative Order No. 69, removing from office Justice of the Peace Buenaventura Sabulao of Kidapawan, Cotabato, for fixing an excessive bond for the provisional release of an accused who had a personal conflict with him.

The President said that for fixing the excessive bond, Justice of the Peace Sabulao "has broken faith with his oath of office to administer justice to every person, thereby rendering himself unfit to sit in judgment over his fellowmen." He further emphasized that "such deplorable conduct on the part of public officials, particularly those in the judiciary, has given occasion for people to lose faith in their government and I am determined to restore such faith no matter what the cost."

The excessive bond was fixed for the provisional release of Marciano Sumagaysay, who had been accused of malicious mischief. The justice of the peace fixed the bond at P6,000 and reduced it later to P4,000.

It was pointed out that the customary bond for malicious mischief should not exceed P600 because the penalty for the offense is *arresto mayor* in its medium and maximum periods.

The President said that after studying the case, he observed that Sabulao had deliberately fixed an excessive bond against Sumagaysay. The case showed that the justice of the peace was one of the attorneys for the petitioners against Sumagaysay in a *certiorari* case pending in the Court of First Instance of Cotabato. The land in the case is the same land on which the alleged malicious mischief, for which Sumagaysay was prosecuted, had been committed. "It is evident, therefore, that the interests of the respondent's (Sabulao) clients conflict with those of Sumagaysay," the President said.

The removal of Sabulao from office is effective upon receipt of the order.

The President also signed Executive Order No. 76, terminating the collection of toll at the Cagayan toll bridge in Cagayan de Oro City effective upon receipt of a copy by the city treasurer of Cagayan de Oro City.

The President said that the total cost of the Cagayan toll bridge plus interest at the rate of 4 per cent per annum have fully been recovered.

In the evening, Malacañang confirmed a decision of the provincial board of Rizal recommending one year's suspension for Vice-Mayor Bernardo Umali of Makati and designated Councilor Ignacio C. Babasa as acting mayor of Makati, Rizal.

Umali, by operation of law, was to succeed twice-suspended Mayor Jose D. Villena as acting mayor of Makati. However, Executive Secretary

Castro confirmed the decision of the Rizal provincial board to suspend Umali for maladministration and oppression. Castro directed Babasa to assume office immediately as acting mayor.

The President returned from Zambales unexpectedly in the evening.

**October 17.**—**T**HE PRESIDENT woke up early this morning to fulfill an appointment as wedding sponsor at the wedding of Lulu Tan and Benny Gomez held at the San Agustin Church. The bride is the daughter of Rep. and Mrs. Carlos S. Tan of Leyte, while the benedict is the son of Mr. and Mrs. Carlos Gomez of Pampanga.

From the church, the President left for an "undisclosed place out of town."

In the evening, Malacañang announced the appointment of Emilio Galang as acting commissioner of immigration and set his oath-taking at 10 a.m. Monday, October 18, before the President.

Until his new appointment, Galang had been chief prosecutor of the Deportation Board and had been responsible for the prosecution and deportation of some notorious aliens, including Go Pak.

**October 18.**—**E**ARLY in the morning, the President had a breakfast conference with political leaders in Mindanao and Sulu, namely, Sen. Tomas Cabili, Reps. Domocao Alonto of Lanao, Luminog Mangelen of Cotabato, Ombra Amilbangsa of Sulu, and Gov. Leon Fernandez of Sulu. Following the conference, the President appointed:

(1) Januario Lagrosas, municipal judge of Iligan City, as provincial fiscal of Lanao, vice Honorato Bautista, suspended;

(2) Pompeyo Palarca, acting assistant provincial fiscal of Lanao, as municipal judge of Iligan City, vice Lagrosas;

(3) Jose L. Coscolluela, Jr., as provincial fiscal of Sulu, and

(4) Oham Gadjali as provincial board member of Sulu.

The President, after the conference, also issued a directive for the Bureau of Lands to send a team of investigators to Mindanao for the purpose of expediting the issuance of land titles in the Moslem communities. He expressed his readiness to release some funds from his contingency fund if no money was available to the Bureau of Lands for the purpose.

Gov. Fernandez reported to the President on the latest developments in the campaign against Kamlon, the Moro bandit leader. The Sulu governor said that the number of Kamlon's men surrendering to the government was increasing daily. Gov. Fernandez also reported that Sulu's capitol building, which had been constructed in 1950 at a cost of P270,000, was already crumbling and was being inspected by government engineers.

About 9 a.m., the President received former President and Mrs. Sergio Osmeña, who called at Malacañang to pay their respects following their recent arrival in Manila for a few day's visit here.

Looking hale and healthy, former President Osmeña congratulated President Magsaysay for his stand on the reparations question with Japan. "Very dignified," the former President commented.

After receiving the Grand Old Man of Cebu, the President inducted Emilio Galang as acting commissioner of immigration and congratulated him for having accepted a very hard task. He told the appointee: "It is my faith in your honesty which prompted me to appoint you."

The President expressed the hope that the immigration office would be run with unquestionable honesty. Galang answered that he would remember the President's words and pledged to do his best.

Present at the induction were his wife, children, relatives, and officials and employees of the Bureau of Immigration. Galang took over the position left vacant by the resignation of former Justice Luis P. Torres.

Immediately after inducting Galang, the President returned to his executive office, where he resumed receiving callers.

The President received Rep. Leon Guinto, Jr., who called to say goodbye prior to his departure for the United States on a mission for the House of Representatives. The Chief Executive suggested to the Quezon solon

to take advantage of his trip to the United States to study ways of eliminating middlemen in the copra industry in order to give maximum benefits to local coconut growers.

A large delegation from Leyte requested the President's assistance in connection with claims they had filed with the Army for payment of loose firearms and ammunitions turned over to the Government. The claimants explained that settlement of their claims had been indefinitely postponed because the army bodega in which the surrendered firearms were stored, had been burned.

About 10 a.m., the President pinned a Legion of Honor medal on Fernando Ricafort of Davao City for exceptionally meritorious civic-spirited cooperation with the Armed Forces. According to the citation, Ricafort, without any compensation, had caused the arrest of an officer in charge of an MIS team in the 4th MA who had attempted to extort P20,000 from a Filipino-Chinese resident of Davao City.

"Through this meritorious act, Mr. Ricafort has set an example of high civic consciousness worthy of emulation by all who would rid the government service of graft and corruption," the citation which was signed by Lieut. Gen. Jesus Vargas, AFP chief of staff, said.

At the request of Matabay Piang, Mindanao women leader, the President directed Agriculture Secretary Salvador Araneta to send 20 students of surveying and two surveyors to survey settlement lands in Cotabato. He wanted the settlement lands to be subdivided into eight hectares for each settlers. He also instructed Araneta to pay the 20 surveying students minimum wage rates.

Another directive issued to Secretary Araneta was to implement the plan to classify grazing lands separately for settlement lands in Mindanao. The President was informed by Matabay Piang that many settlers do not know which is settlement land and which is grazing land. The Moslem women leader in Mindanao was accompanied by Sultan Bato Ali.

A group of women from Dagupan City submitted a resolution to the President endorsing the appointment of Mrs. Teofilo Cabrera as member of the provincial board of Pangasinan to take the place of her late husband, Teofilo Cabrera, who was recently shot to death in Dagupan City by an amok. The President said he would study the petition.

Manila Councilors Francis Yuseco and Justo Ibay accompanied a group of squatters in Harrison Park who begged the President to help them stay the ejection order against them. The President sent their request to the director of the Bureau of Lands for study. Another matter taken up by the Manila councilors was the proposed erection of an indigent children's hospital in Tondo.

The President issued a directive to Col. Antonio Chanco, chief of the AFP corps of engineers, to give one pre-fab barrio school-house to Laur, Nueva Ecija. This was on the request of Laur Mayor Jorge M. Padilla.

The President today took another step to implement his administration's program of increased rice production when he authorized the release of P4 million to start the P12 million multi-purpose Agno River irrigation project which will serve about 26,000 hectares of rice lands in Pangasinan.

The President is scheduled to sign the bond issue to raise the necessary sum with which to start the project in a ceremony to be held at Malacañang at 4 p.m. tomorrow. Under Republic Act No. 1000 passed during the last regular session of Congress, the President is authorized to float bonds in the amount of P1 billion to finance public works and other economic development projects of the Administration.

Construction of this project is a joint FOA-PHILCUSA undertaking. Public Works Secretary Vicente Orosa said that the U. S. Foreign Operations Administration had committed to make available P1,169,000 worth of materials and equipment as its initial contribution to the project upon the release of P4 million by the Philippine Government.

The Agno River irrigation project is designed to divert and utilize the water coming down from the Ambuklao hydroelectric power plant

in Mountain Province for irrigation purposes. Its construction would insure water supply the year round and make possible the harvest of several crops a year in the vast tracts of rice lands in Pangasinan.

The President this noon summoned to Malacañang Deputy Governor Andres Castillo of the Central Bank, who has charge of arrangements regarding government bond issues. He instructed Castillo to prepare the P4 million bond release for his signature the next day. The bonds will be purchased by the Philippine National Bank.

Other callers of the President included Govs. Arsenio Lugay of Tarlac, Bernardo Torres of Leyte, Manuel Calleja of Albay, and Jose Valera of Abra, and former Minister Bernabe Africa and Speaker Protempore Daniel Z. Romualdez.

The President had lunch with Danish Consul H. J. Johansen, F. L. Chambers, Capt. K. K. Shultz, and four officers of the *S. S. Johannes Maersk*, which brought to the Philippines 5,000 tons of rice bought by the NARIC from Thailand. The luncheon was in reciprocation for the party given by the ship officers in honor of the President last week.

In the afternoon, the President went over state papers.

**October 19.**—**E**ARLY in the morning, the President enplaned for Zambales to look into the complaints of some 1,000 employees and laborers of the Sto. Tomas irrigation dam whose salaries had not been paid for the last two months. Returning to Malacañang about 9:30 a.m., the President ordered Executive Secretary Fred Ruiz Castro to thresh out the matter with Public Works Secretary Vicente Orosa, Budget Commissioner Dominador Aytona, and Auditor General Manuel Agregado so that the back salaries of the workers could be paid at once for the sake of their families.

The President received callers at his executive office from 10 a.m. to 12:30 p.m. Most of the callers consisted of delegations from various municipalities, headed by their respective mayors who sought financial assistance for barrio roads, school buildings, artesian wells, and irrigation systems.

The Philippine delegation to the forthcoming international congress of Jaycees in Mexico City called to pay their respects prior to their departure for abroad. The local delegation brought along with them members of the Hongkong delegation who had made a stop-over in Manila on their way to the conference.

Among the Philippine representatives was Oscar Arellano, regional vice-president of the Jaycee International for Asia, whom the President requested to study housing and irrigation techniques in Mexico.

A Christ the King committee headed by Ignacio Lizo invited the President to read the act of consecration at the U. S. T. campus during the ceremony following the procession on Christ the King Day on October 31.

Bernardo Abrera, NASSCO general manager, and members of the firm's board of directors requested the release of additional funds for the improvement of the government shipyards in Mariveles.

Other callers included Sen. Macario Peralta, Jr., Rep. Jose Naguid and Gov. Adelmo Camacho of Bataan, Lieut. Gen. Jesus Vargas, former Rep. Jose T. Nueno, Gov. Dominador Chipeco of Laguna, and former Public Works Secretary Sotero Baluyut.

In the afternoon, the President intensified what he call the Government's "total war against poverty" among the people by signing:

(1) A bond issue in the amount of P4 million to start the P15 million Agno River irrigation project in Pangasinan; and

(2) Another bond issue in the amount of P2 million to expropriate the 87-hectare Gonzales estate in Calocan, Rizal, for subdivision and resale at reasonable cost to tenants.

The President affixed his signature to the documents at a simple ceremony in the Cabinet room in the presence of ranking officials of the Department of Public Works and Communications headed by Secretary Vicente Orosa,

the Monetary Board headed by Finance Secretary Jaime Hernandez, the Central Bank headed by Acting Governor Andres Castillo, the Foreign Operations Administration headed by Col. Harry A. Brenn, and newspapermen.

The President said that the work on the Agno River irrigation project which will start immediately would irrigate nine towns in eastern Pangasinan comprising an area of 25,000 hectares with a population of more than 200,000. When completed, the irrigation canal system will have a total length of 194 kilometers.

The Chief Executive pointed out that the construction of this irrigation project is one of the concrete measures being undertaken by the Government to increase rice production in the Philippines in order to help solve the rice problem. He added that as a result of this project, thousands of farmers would be benefitted, realizing part of the Government's object of improving the living conditions of the rural population.

He explained that in its all-out effort to increase rice production, the Government aside from increasing the number of its irrigation projects is also distributing fertilizers among the farmers. He said the Department of Public Works has been constructing turbines and centrifugal pumps in many areas to insure adequate and constant water supply for the farms. For instance, he said, along the Pampanga River six 42-inch centrifugal pumps had already been installed and the same system would also be inaugurated in Mindoro.

The signing of the bond issue for P2 million for the expropriation of the 87-hectare Gonzales estate in Caloocan, Rizal, is another measure taken by the Administration to help eradicate poverty, provide land for the landless, and raise the standard of living of the common people.

After the acquisition of this property, the PHHC would take over the management of the estate. Secretary Orosa, manager of the PHHC, said that the residential portion of the land would be subdivided and resold at reasonable cost to the deserving tenants.

The P4 million bond was purchased by the PNB and other banks while the P2 million bond for the expropriation of the Gonzales estate was purchased by the Government Service Insurance System.

The President was officially informed this day of a new policy of the RFC to facilitate homesteaders with loans to help them develop their homesteads. Sixto de la Costa, acting chairman of the RFC board of governors, informed the President that the RFC board had approved a resolution authorizing the granting of loans to *bona fide* homesteaders in amounts not to exceed P1,000 for any applicant.

This resolution was an implementation of Republic Act No. 1085 and in consonance with the President's directive to give all-out government help to improve the living conditions of the people in the rural areas.

Acting swiftly on reports that his name was used in consummating the sale of 16,800 square meters of PHHC land to Dr. Eliodoro Congco at P3 a square meter, the President called up Public Works Secretary Vicente Orosa, concurrently PHHC manager, and instructed him to seek the immediate revocation of the sale of the land.

The President lashed out at government officials who utilized his name to secure considerations from several offices and indicated that he might order an investigation into this case of "misrepresentation." The President's anger was also aroused by reports that the land involved was sold at P3 a square meter. He said the price was "scandalously low."

Malacañang sources indicated that the market price for the land situated north of Project No. 2, Quirino District, Quezon City, ranged from P10 to P11 a square meter. This was the usual price demanded of prospective low-income home-builders for whose benefit and relief the PHHC had been created.

Sale of the land to Dr. Congco was approved by the PHHC board of directors last Tuesday after the board had received a letter from Health



Undersecretary Rafael Tombokon recommending the sale of the land at P3 a square meter.

In his telephone conversation with Secretary Orosa, the President denied ever having authorized the sale of the land at P3 a square meter. "I am not interested in that hospital," he told Orosa in ordering him to cancel the sale.

The President recalled that he saw Dr. Congco two weeks ago when Dr. Congco came to appeal for special consideration in the purchase of PHHC land for his hospital. The President merely assured Dr. Congco that he would take up the matter with the PHHC board, but he did not assure the doctor that he would authorize the sale of the land at P3 a square meter.

In compliance with the President's directive, the directors of the PHHC, smarting under the lash of presidential indignation, rescinded unanimously this day the sale of the land to Dr. Congco.

The President also ordered this day a review of the controversial movie, *Viva Zapata*, in Malacañang Monday afternoon in connection with the ban against its exhibition outside Manila and suburbs.

The President directed a review of the picture following reports that the picture had been banned from exhibition in Cebu. The movie which depicts a revolution in Mexico had been withheld from theaters outside of Manila on the ground that it was "inflammatory."

Ban against the exhibition of the movie was disclosed in Cebu City when Mayor Jose V. Rodriguez inquired from Lieut. Gen. Jesus Vargas as to whether the controversial movie could be shown in that city. Gen. Vargas replied that the board of censors had not endorsed the exhibition of the film outside Manila and suburbs.

The President invited the members of the Board of Review for Moving Pictures to sit with him in the Malacañang review scheduled for Monday.

**October 20.**—THE PRESIDENT early in the morning received members of a special mission from Indo-China which arrived at Manila recently to observe general conditions in the Philippines, particularly on the cooperation of army and civilian authorities in social welfare work.

The mission informed the President that they were especially interested in methods employed by the Government in connection with its rural improvement program and utilization of engineer battalions for the construction of barrio roads, schoolhouses, and artesian wells. Members of the mission said they had heard so much about the resettlement project of the Philippine Government which, they said, appeared to be an efficient weapon in combatting discontent among the landless and attracting dissidents to return to the folds of the law.

During the call, the President told the missionaries about his EDCOR projects, the psychological warfare against the Huks, and other projects launched by his administration to check the spread of Communism in this country. He ordered the Army to extend all possible assistance to the group.

Nguyen Van Hanh of Vietnam's ministry of social action expressed amazement at the success achieved by the Philippine Government despite its limited resources. Other members of the group were Nguyen M. Thai of the ministry of reconstruction, Capt. Dinh Doan Man, Lt. Nguyen Hang Vuong, Bo Prong Chu, and Lt. Rufus Philips.

After receiving the Vietnam missionaries, the President summoned the members of his Cabinet for a flying trip to Calapan, Mindoro, where he held the first out-of-town meeting of his official family under a nipa roofing in a sawmill in barrio San Agustin, Naujan, Mindoro Oriental.

The President and his Cabinet flew on board two planes, the *Pagasa* and the *Laong-Laan*. They left Nichols airbase at 8:40 a.m. and landed in Calapan at 9:10 a.m.

Before the Cabinet meeting, the President cut the ceremonial ribbon during the formal inauguration of a P100,000 irrigation pump at barrio Bucayao, Calapan, Mindoro Oriental. A joint FOA-PHILCUSA project,

the 42-inch irrigation pump will water some 1,200 hectares of rice lands and enable farmers in the area to have two crops a year.

As the Cabinet met under the nipa roofing of a lumber shed, a big crowd of curious onlookers thought that the Cabinet men were on a picnic.

Gov. Francisco Infantado of Mindoro Oriental brought up before the Cabinet the problems of his province. Some of the problems were decided on the spot while others which needed further consideration were postponed for further study.

Turning to Justice Secretary Pedro Tuason, Gov. Infantado complained of the backlog of cases pending in the Court of First Instance owing to the extensive jurisdiction of its judge, Eusebio Ramos. Pointing out that Judge Ramos held court not only in Calapan but also in the provinces of Batangas and Marinduque, Infantado said his extensive jurisdiction had resulted in accumulation of a backlog of cases in the Calapan court. He said 56 prisoners had been in his provincial jail for some length of time awaiting conclusion of their trials and a total of 173 criminal cases was pending in the court. He asked for the assignment of an additional judge to Calapan to clear up the docket.

Secretary Tuason replied that the only solution to this problem seemed to lie in legislation to create more district courts. He pointed out that since the position of judges-at-large had been abolished, the Department of Justice had no reserves to draw upon in such cases. The justice secretary promised, however, to ask Judge Ramos to take speedier action on cases pending in his court.

Again addressing Secretary Tuason, Gov. Infantado denounced Justice of the Peace Pablo de Joya of Pinamalayan for alleged anomalies in the discharge of his duties. Among other things, the governor charged the J. P. with having killed a carabao in open defiance of the President's ban against carabao slaughter. This information drew a sharp reaction from the President, who said that a justice of the peace was the last man he expected to violate the laws flagrantly.

Upon being told that administrative charges against the J. P. were already being investigated by the court of first instance, the President asked Tuason to determine whether there was *prima facie* justification to suspend de Joya pending conclusion of the inquiry.

Infantado had begun his appearance before the Cabinet by thanking the President and the department chiefs for the signal honor they had given his province by choosing it as the site of their first out-of-town Cabinet meeting. The Chief Executive said this was an implementation of his pledge of bringing the government closer to the people.

After Infantado's briefing, the President congratulated the provincial executive for his quick grasp of the needs and problems of his constituency and for bringing the case of the justice of the peace of Pinamalayan before the Cabinet.

The Cabinet then turned to the regular agenda and:

(1) Approved a recommendation to appoint Felipe Cuaderno, now director of telecommunications, as acting director of the Bureau of Posts, and to designate Jose Alfonso, Cuaderno's assistant, as acting director of telecommunications;

(2) Created a committee to study the problem of locating funds for the payment of gratuities to retirable government officials and employees. the committee, which was instructed to complete its assignment by the end of November, is composed of Secretary of Finance Jaime Hernandez as chairman and Budget Commissioner Dominador Aytona and GSIS General Manager Gregorio Licaros as members;

(3) Approved a grant of P15,000 out of Philippine Charity Sweepstakes funds for the Liberty Wells Association to finance a fund-raising campaign (Oct. 15 to Nov. 15) to raise an additional P500,000 in voluntary contributions for Liberty Wells on top of the P400,000 that the group has already collected;

(4) Approved the release of P500,000 from the contingent fund for the Bureau of Posts to maintain essential letter carriers in the service and for other operating expenses of the bureau. Upon approval of this item, President Magsaysay assured Governor Infantado of one letter carrier for Naujan upon request of the town's residents; and,

(5) Approved the payment of a claim of Florencio Reyes and Co., Inc., for 837 metric tons of hot road paving asphalt delivered to the Bureau of Public Works at \$56 per metric ton. Secretary Orosa pointed out that this delivery was made under the old administration under a negotiated contract. An inquiry sent to the Department of Justice regarding the legality of the transaction, Orosa said, drew from Undersecretary Jesus Barrera an opinion that the government had to honor it although under the incumbent administration the price of hot road paving asphalt purchased by the Bureau of Public Works has gone down to \$47 as a result of public bidding.

After the Cabinet meeting, the group sat down to a festive luncheon of giant *Dinglis* and *Sinbad* fish found only in lake Naujan. The Cabinet meeting lasted from 11:15 a.m. to a little past noon. The group left Calapan at 1:35 p.m., arriving in Manila at 2:10 p.m.

Those who were with the President were Secretary of Justice Tuason, Secretary of Finance Hernandez, Education Secretary Gregorio Hernandez, Secretary of Public Works Orosa, Secretary of Agriculture Araneta, Secretary of Commerce Oscar Ledesma, Executive Secretary Fred Ruiz Castro, Budget Commissioner Aytona, Social Welfare Administrator Pacita M. Warns, Secretary of Health Garcia, Secretary of Labor Eleuterio Adevos, Economic Coordination Administrator Montelibano, Press Secretary J. V. Cruz, Civil Affairs Commissioner Sofronio Quimson, Undersecretary of Foreign Affairs Raul S. Manglapus, and PCAC Deputy Chairman Nicanor Maronilla-Seva.

**October 21.**—**T**HE PRESIDENT this day issued Proclamation No. 80, ushering in the effectivity of the exemption of wheat flour from the 17 per cent excise tax on foreign exchange.

The President, in his proclamation, explained that the imposition of the 17 per cent exchange tax on imported wheat flour tended to increase the price of bread and other essential commodities made from wheat flour.

"The interest of the national economy and the general welfare require that wheat flour be procured at the lowest possible price so as to place bread and other essential articles within the reach of the masses," the President said.

Republic Act No. 1197 passed during the last session of Congress authorized the exemption of certain essential items from payment of the 17 per cent exchange tax levied on imported goods. However, the date of effectivity of such exemption had been left to the discretion of the President when in his judgment the interest of the national economy and general welfare so required.

The President started receiving callers at 8:30 a.m.

OEC Administrator Alfredo Montelibano called to consult him on various pending matters in his department. During the call, the President authorized the floating of a P1 million bond with which to finance government acquisition of a 2,000-hectare estate in San Luis, Pampanga, for subdivision and distribution to tenants in connection with the EDCOR project there.

The President also asked Montelibano to study the possibility of constructing tenement houses of several stories high for renting to low-salaried employees and laborers, patterned after similar housing projects in Mexico and other countries. This is in connection with the slum clearance program of the government designed to provide low-income sections of the population with more healthful places to live in.

The President heard the report of members of the investigating committee created recently to weed out undesirable elements in the Department of Labor. The committee called at Malacañang following more than three months of investigation work which resulted in the dismissals of seven officials, the outright separation from the service of two others, and the suspension of another two.

Accompanied by Labor Secretary Eleuterio Adevos, Wenceslao Guzon, committee chairman, attributed the success of their work to the fact that the labor secretary had given them a free hand and had extended all necessary assistance in their probe work which often took them to provinces as far as Zamboanga in their efforts to dig out facts. Members of the probe body are Ruben Santos and Casimiro Tobilla.

Rep. Jose Aldeguer of Iloilo, in his capacity as president of the U. P. Alumni Association, called to verify reports that medical students from private universities would be admitted to the Philippine General Hospital for internship training.

The President informed the Iloilo solon there was no such change in policy. He explained that while the deanship of the U. P. College of Medicine and the directorship of the P. G. H. had been separated, the P. G. H. would continue to admit only interns from the State University. The P. G. H. would remain under the office of the President, he said.

Members of the board of directors of the Manila Gas Corporation who called to pay their respects informed the President that the firm was steadily increasing its income and that gas rates sold to consumers had been reduced by 10 per cent. The Members of board of directors are Ludovico Hidrosollo, Alejandro Hontiveros, Victor Lim, and Sergio Bayan.

Perla Sobrepeña, president of the Kalibayan Women's Association in San Jose, Nueva Ecija, reported on her organization's social welfare work in the locality.

President Magsaysay this day ended the three-week strike against the Benguet Consolidated Mines in Masinloc, Zambales, when he asked the striking laborers to return to work the next day, October 22.

The President saw the leaders of the striking Coto Labor Union who promised that they would resume working Friday.

Assuring the laborers that he would visit the mining company, the President told them that they should return to work "for the sake of peace." He also told them that Judge John W. Hausserman, owner of Benguet Consolidated Mines, had the welfare of the Filipinos at heart.

The President assured the labor leaders and their lawyer that he would talk to Judge Hausserman for the reinstatement of the 17 laborers who had been suspended from work because of failure to report.

The delegation of the Coto Labor Union was headed by Union President Clemente Soberano and accompanied by Labor Undersecretary Agapito Braganza and Atty. Ciriaco Magsanoc, chief conciliator of the Department of Labor.

The President received Jack Kramer, Pancho Gonzales, Pancho Segura, and Frank Segman, the world's four top professional tennis players now playing a series of games here. Mrs. Frank Segman was also with the group. They were accompanied by Manuel Elizalde. Talking with the President for about 15 minutes, the tennis players expressed gratitude for the hospitality and reception being extended to them. The Chief Executive said he would take time out to watch them play.

Another foreign visitor of the President was Holland French, commissioner of the Salvation Army, who told the Chief Executive that if the Filipinos ever needed the help of the Salvation Army, it would always be extended to them.

Commissioner French informed the President that the Salvation Army planned to do some social work in the country like erecting buildings for orphans and indigent children and mothers. "If there is any way

by which we can help you, just call on us," the Commissioner said. The Salvation Army head also praised the wonderful job being undertaken by the Government for the improvement of the masses. He was accompanied by Lt. Col. George S. Arndt, divisional commander of the Salvation Army in the Philippines.

Wallace Moir, vice-president of the Philco International, paid his respects to the President. He was accompanied by Heacock's President Jose Y. Orosa.

The members of the Philippine division of the American Legion who attended the recent AL convention in the United States called on the President and reported to him their accomplishments. The delegation was headed by William Quasha.

Officers of the CONDA, which is sponsoring an Asian Students Conference in Baguio in December, called on the President and requested his help for the success of the occasion. The conference will be attended by students from 11 Asian countries.

The CONDA officers who called on the President were Oliver Amorin, president; Rosito Manhit, vice-president; Luis Ballesteros; Alma Bellardo; Ignacio Katapang; and Eugenio Villanueva, adviser.

At the request of Governor Damaso Samonte of Ilocos Norte, the President directed Public Works Secretary Vicente Orosa to release P12,000 for the construction of barrio roads in Laoag, Ilocos Norte.

The President received callers until past noon. They included Justice Secretary Pedro Tuason, Governor Dominador Chipeco of Laguna, and Charles Henderson III of the Henderson and Trippe Co.

In the afternoon, the President received numerous visitors from 4 p.m. until past 6 p.m.

The President received first in his study room the Consultative Council of Students. Ignacio Debuque, Jr., who is chairman of the group, presented to the President a plan to send out several teams of students specializing in various lines of studies like medicine, social work, surveying, engineering, law, and social studies to the different barrios to work in connection with the President's social amelioration program in the rural areas during vacation time.

The President was informed that these specialized student groups would spend their vacation working for the improvement of the living conditions of people in the barrios without pay. The only thing necessary, Debuque said, was to provide them with transportation expenses while they work. The President said that he would study the best means of providing these volunteer student groups with what they need.

The Chief Executive received next a delegation of Nile Temple Shriners headed by Hal N. Snyder, potentate; Leslie W. Eastman, chief rabban; Frank B. Donaldson, assistant rabban; and Thomas N. Fowler, high priest and prophet. They recently arrived in the Philippines in the course of their trips to Hongkong, Taipei, and Tokyo to initiate new Shriners. Mr. Snyder was accompanied by his wife.

The Shriners were accompanied to Malacañang by the local Shriners of the Bamboo Oasis Shrine Club Divan, among whom were Mr. and Mrs. Victor L. Stater, high shereef; Henry Gilhouser, treasurer; Vicente Orosa, and Dr. Mauro Baradi.

Snyder told the President: "The American people have a very high regard for you. We hear and read a great deal about you and what you are doing for your people, Mr. President."

The President said that he was just carrying on his work. He explained that one of his most important tasks was the fighting of Communism in the Philippines. He added that with his "all-out friendship and all-out force" method of attack the Government was winning its fight.

He pointed out that now that the Government could give lands to the landless and build roads and irrigation systems for them and improve their way of life through democratic processes, which are some of the things which the Communists could merely promise to give them by means of armed



revolution, there is no chance for Communism to succeed. The Chief Executive also told the Shriners that under his administration he would not allow the practice of corruption which is usually seized on by Communist agitators to make the people lose their faith in the Government.

Snyder presented to the President a check for P500 as their contribution to the President's Liberty Wells fund.

The President next received Agriculture Undersecretary Jaime Ferrer, who invited the Chief Executive to visit the Alabang stock farm on October 28 in connection with the celebration of the Barrio Farmers Week. He also received Labor Undersecretary Agapito Braganza, who took up matters affecting his department.

The President then went to the ceremonial hall and received the Ateneo and the Jose Rizal College basketball teams which recently won the NCAA championship in the senior and the junior divisions. The delegations were accompanied by officials of both schools and of their alumni associations.

In a brief extemporaneous remarks to the two groups, the President asked them to make a tour throughout the Philippines to perform exhibition games for the benefit of worthwhile civic projects.

He congratulated the two teams and said he was proud of being a Rizalian and an honorary Ateneo alumnus. He said in a humorous vein that he was glad of being an honorary Atenean because otherwise he would feel very much a stranger with his Cabinet members, most of whom speak with a pronounced Ateneo accent. Rev. Fr. James MacMahon, Ateneo rector, thanked the President for honoring the two teams.

Gov. Rafael Lazatin of Pampanga, who is the president of the Jose Rizal College Alumni Association, presented the Chief Executive with a check for P500 for the peace-and-amelioration fund campaign.

**October 22.**—**F**EELING a little indisposed, the President cancelled all his appointments this day and relaxed in bed. He stayed in bed the whole morning but had to leave it in the afternoon to fulfill an engagement he could not cancel.

The President went down the Malacañang social hall to give "moral support" to the First Lady as she officiated in the kick-off ceremony launching the 1954 Malacañang Christmas Festival for Manila's indigent children. Mrs. Magsaysay led the charity affair which brought a neat windfall of some P70,000 cash and other donations consisting of rice, dress materials, milk, shoes, slippers, toys, soap, candies, and foodstuffs.

The First Lady said she was overwhelmed by the magnanimous and spontaneous response of the community to her appeal for gifts and cash donations for the holding of the 1954 Malacañang Christmas Festival. In her brief extemporaneous remarks at the kick-off ceremony, she thanked all the donors to the project, adding that she was sure that with the continued support and cooperation of the community, the festival would surely bring joy to thousands of underprivileged children this Christmas.

Mrs. Magsaysay honored some 400 guests with a *merienda* in the social hall, which was gaily decorated with Christmas lanterns.

After the ceremonies, the President came down the social hall and joined the First Lady in welcoming her guests with a *merienda*. The day was decidedly Mrs. Magsaysay's day as the Chief Executive receded to the background of activities. The President posed with the First Lady and other festival officials near the miniature manger decorated with small bamboo branches on the left side of the platform.

Earlier in the afternoon, the President flared up at the three-day wranglings on the height and measurement of the race horse *Urduja*. He was enjoying his afternoon nap when he was disturbed by the horse owners who were engaged in lively discussions on the measurement of the much disputed sweepstakes entry. Irrked by the peppery discussions, the President ordered immediately the disqualification of the horse *Urduja* in the sweepstakes race on Sunday, October 24.

President Magsaysay disqualified *Urduja* from taking part in the sweepstakes race Sunday at Santa Ana Park after the owner of *Urduja* refused to submit his entry for re-measurement without its shoes on.

A source close to Malacañang said in the evening that the President had received Col. Telesforo Tenorio's application for an indefinite leave of absence without pay pending his case in court. It was learned that the President has been seriously considering a move to reject Tenorio's application for leave of absence and, instead, suspend him as chief of police of Manila pending his trial in court on a charge of qualified theft.

Tenorio and Eduardo Figueras, a local Nacionalista leader, were indicted yesterday afternoon of plotting with six others the carting away of 344 cases of cigarettes from the U. S. Military port of Manila four years ago. Tenorio filed yesterday a P30,000 bond with the Manila court for his provisional liberty.

**October 23.—**FROM THE YACHT *Pagasa*, where he spent the whole day, the President ordered his aide to wire back Agriculture Secretary Salvador Araneta turning down the latter's proffered resignation as secretary of agriculture and natural resources.

Secretary Araneta tendered his resignation in angry protest against Labor Secretary Eleuterio Adevosos's alleged regimentation of labor unions in an effort to embarrass him. He wired his resignation from Baguio in a move calculated to test the President's confidence in him as a member of the Cabinet.

Araneta offered to step out of the Cabinet "if in any way I have embarrassed your administration by my presentation before you and the public of the fact that present scale of minimum wages as applied to certain rural areas has brought about unemployment and is making difficult the creation of more job opportunities and the development of agriculture."

In his cabled letter of resignation Araneta pointed to the "resolution of certain labor leaders to request my ouster from the Cabinet and to picket the office of the Department of Agriculture and Natural Resources." He charged that this resolution "was adopted in the presence of Adevosos thereby bestowing his approval to the same."

In announcing the President's rejection of Araneta's resignation, Press Secretary J. V. Cruz said the Chief Executive had always considered Araneta's expressed views on re-examination of the minimum wage law as the personal views of the Secretary which he had advanced in a sincere effort to serve the national interest.

Secretary Araneta's views drew several resolutions from provincial officials recommending the revision of the minimum wage law.

Secretary Adevosos, on the other hand, opposed a revision of the Minimum Wage Law as the legislation he said was enacted for the protection of labor. Several labor unions belonging to the Philippine Trade Union Council, led by Jose J. Hernandez, secretary general, supported Adevosos's stand in his controversy with Araneta on the wage law.

On the recommendation of the Board of Pardons and Parole, the President this day granted conditional pardons to five insular prisoners, special absolute pardons to one prisoner, and commutation of sentence to another prisoner.

The President returned to the Palace in the evening.

**October 24.—**AFTER HEARING mass with the First Lady and their children at the Malacañang chapel, the President had breakfast with his family.

The President relaxed after breakfast and at 12:20 p.m. left the Palace to arrive just in time for the United Nations Day celebration at the Manila Hotel. He was accompanied by Press Secretary J. V. Cruz, Col. Napoleon D. Valeriano, and Capt. Pat. Garcia.

Arriving at the Manila Hotel at 12:30 p.m., the President was met at the hotel lobby by Teodoro Evangelista, president of the UN Association of the Philippines. The President, together with Mr. Evangelista, was joined at the lobby by Vice-President Carlos P. Garcia and Miss Helen Benitez, UNAP vice-president. They proceeded to the rostrum of the fiesta pavillion where they sat during the ceremonies.

After the luncheon, the President delivered his United Nations address before a big crowd gathered at the Manila Hotel fiesta pavillion in observance of the 9th anniversary of the establishment of the United Nations Organization.

In his address the President accused Communist countries of treacherously keeping "a club and chains behind their backs" while seeking the friendship of the Free World.

He said, "The plea for co-existence should not be addressed to the Free World" but to the "Communist countries who have shown their unwillingness to accept peaceful co-existence."

In charging Communist countries with treachery, the President said that "whenever Communists have extended their hands in friendship, behind their backs the other hand held a club and chains for the victim of their overtures."

The President said that "only when they have demonstrated by deeds their permanent abandonment of such criminal intent can the Free World afford to extend its hospitality and let down its guard."

In a tone of boldness, the President said that the Free World must not be afraid to recognize communist aggression as a real war of survival and not only a cold war. Only by facing this reality he said, will the Free World be able to muster its forces and meet the enemy and thus save itself from destruction. (See *Historical Papers and Documents*, pp. 4752-4755, for the full text of the President's address.)

The President's address lasted from 1:30 to 1:45 p.m.. After the ceremonies, the President returned to Malacañang.

Shortly before dusk, the President left again for an undisclosed place, presumably to return to the Pagasa.

**October 25.**—**S**OURCES CLOSE to the President said the Chief Executive cancelled all his scheduled appointments this morning and closeted himself in his study room just to mull over the United Nations Day speech of Vice-President Carlos P. Garcia. Ernesto del Rosario, editor-in-chief of the *Manila Chronicle*, devoted his regular column this day entirely to Vice-President Garcia's speech. This fact must have induced the President to go over the speech.

In the afternoon, the President conferred with top government officials in charge of implementing vital projects and spurred them to greater activity. He said he wanted the common people to enjoy the benefits of these projects within the least possible time.

The President first conferred with public works officials headed by Secretary Vicente Orosa and told them to hurry the construction of concrete roads and bridges and irrigation systems. He told Orosa, concurrently PHHC general manager, that he had approved the release of P6 million from the GSIS funds to finance the construction of more low-cost housing projects for laborers and low-salaried employees of the government.

The Chief Executive also inquired from Col. Antonio P. Chanco, chief of the AFP corps of engineers, how soon the prefab schoolhouses will roll from the Army plant in Palawan and other places for distribution to the needy barrios throughout the Philippines.

Col. Chanco informed the President that soon his plants would start delivering 200 school rooms every months. He explained that it took a little time to have the prefabs rolling from the Army factories because it takes 90 days to season the logs before they are cut. Chanco also pointed out that priorities for the deliveries of these prefabs would

be for those within the initial economic delivery range. He said that there might be some difficulty in delivering the prefabs to distant areas because of transportation. He stressed that no FOA aid had been received for this project.

He also received a report from Economic Coordination Administrator Alfredo Montelibano that the 47 settlers in the San Pedro Tunasan Estate were already cultivating their farms.

Montelibano said that the 47 tenants occupying lots in the area had already started cultivating their landholdings. He added that Army engineers had completed 3/1.2 kilometers of the 47-kilometers road to the settlement. He added that more than 400 tenants had applied to buy the lots in the project and that the subdivision of the estate was expected to be finished by November 1954.

The President said he had called these various key officials in charge of the implementation of government projects because he wanted the projects finished as soon as possible for the benefit of the people.

The President told Secretary Orosa, Undersecretary Juan G. Paraiso, and Public Works Director Isaias Fernando to step up public works construction projects in order to provide more jobs for the people. He was informed by Orosa that 11 projects for concrete roads and bridges had already been bidden, aside from the construction of asphalted roads in places like the Tuguegarao-Ilagan highway in the Cagayan Valley. The President said that he wanted the construction of the Agno River irrigation project started at an early date. He told Orosa that he expected the cornerstone for the irrigation system to be laid with the least possible delay.

Regarding the construction of more low-cost houses, the President said he had made available P6 million for this purpose. For the present, these houses will be constructed in Tondo and in Bago Bantay. There is also a project in Cebu but the Government is just waiting for the donation of the land whereon the houses would be constructed, according to Orosa.

The President also reiterated to Orosa that the offer of Dr. Eliodoro Congco to purchase PHHC land at P3 per square meter was definitely out of the question.

**October 26.**—**P**RESIDENT MAGSAYSAY today authorized the release of P500,000 for the importation of 1,000 heifers in connection with the government's "Operation Dispersal" launched recently to start small farmers in cattle breeding.

The President ordered the release following a conference with Director Manuel D. Sumulong of the Bureau of Animal Industry, who reported on the progress of the Administration's program aimed at augmenting the limited incomes of the farmers by turning them into beef suppliers and providing them with sufficient work animals for their farms.

The program called for the loan of government breeding cattle to the farmers under an arrangement similar to the *kasama* system in which the farmers would turn over to the government the first two offsprings after which the cattle would belong permanently to the farmers.

Director Sumulong reported that "Operations Dispersal" had already been started in nearby provinces with some 50 head of cattle available from government stockfarms. With the arrival of the imported stocks, the President hoped to widen the sphere of operations to other provinces until all farmers interested in the undertaking have been turned into regular cattle breeders.

The President instructed Dr. Sumulong to open bids for the cattle importation as soon as possible. The cattle will be imported from Pakistan, India, Thailand, or Indonesia.

Meanwhile, the President issued Executive Order No. 78, creating the National Advisory Health Council to study problems of public health and sanitation and promote medical research. The secretary of health is chairman of the council while the health undersecretary is vice-chairman.

Members of the council shall serve without compensation and their term shall be coincident with their tenure in their regular positions.

The President received callers at his executive office from 8:30 a.m. to 12 noon. Many of the callers were municipal mayors who requested financial assistance for their respective localities.

Rep. Guillermo R. Sanchez and Gov. Felixberto C. Dagani of Agusan requested additional appropriation for their wharf in Cabarbaran.

Gov. Felix Caro of Isabela asked for the release of his province's frozen pre-war deposits with the PNB and the repair of a high school building which had been damaged by the destructive typhoon *Nancy*, which swept the province recently.

R. E. Fitz Gibbons, manager of the Public Relations, Advertising, and Sales Promotion Agency of the California Texas Oil Co., Ltd., called to pay his respects following his recent arrival here. He was accompanied to Malacañang by R. J. Monical of the local branch of the oil firm.

Other callers included Sens. Justiniano S. Montano, Tomas Cabili, and Macario Peralta, Jr.; Reps. Ricardo Y. Ladrado of Iloilo, Reynaldo P. Honrado of Surigao, Serafin Salvador of Rizal, Cornelio T. Villareal of Capiz, and Apolinario Apacible of Batangas; and Gov. Juan M. Alberto of Catanduanes.

In the afternoon, the President received Manila Mayor Arsenio H. Lacson, who called to press for the suspension of Board President Francis Yuseco and Councilors Eriberto Remigio and Fausto Alberto. The President turned down Lacson's request on the ground that no administrative charges had been filed against them.

In his conference with Lacson, the President informed the Manila mayor of his decision to suspend Col. Telesforo Tenorio as chief of the Manila police, pending the termination of the investigation of administrative charges filed against him by the PC and the criminal case filed earlier in court against him by fiscal Gregorio Lantin.

Mayor Lacson was reported to have endorsed the designation of Col. Napoleon D. Valeriano, senior presidential aide, as acting head of the Manila police department.

In the evening, the President announced the suspension of Tenorio as chief of police of Manila and the designation of Col. Valeriano as acting chief to replace him. Tenorio was suspended on the basis of the administrative charges filed against him with Malacañang by the PC. Tenorio's indictment in court for qualified theft also influenced the President's decision.

Tenorio's suspension was announced by Malacañang on the eve of his scheduled arraignment before the Manila court. He was scheduled to plead before Judge Bienvenido A. Tan at 8 a.m. the next day on a charge of aiding seven others in carting away \$24,000 worth of cigarettes and equipment from the U. S. military port in Manila in 1950.

In designating Col. Valeriano to be the new Manila chief of police, the President was prompted by the desire to infuse new morale and leadership in the Manila police department.

**October 27.**—**A**FTER BREAKFAST with some Malacañang assistants, the President left for a surprise visit to the offices of the Government Service Insurance System in Port Area. He was accompanied by Press Secretary J. V. Cruz and Malacañang Financial Assistant Rodolfo P. Andal, a GSIS board member. The President was shown around the offices by General Manager Gregorio S. Licaros and Domingo Garcia, GSIS public relations officer.

The President was so impressed by the efficiency and cleanliness of the offices that he decided to make an example in the streamlining of other government offices. He said he would create a GSIS committee to streamline government offices. The committee, he said, would look into government offices with a view to making them as efficient and clean as the GSIS.



Probable Chairman of the Committee is GSIS Manager Licaros, who showed the President around the offices.

The President pin-pointed the Bureau of Customs, the Bureau of the Treasury, and the Philippine General Hospital as priority targets of this team when he informed the Cabinet during its regular meeting at noon this day that he was recruiting a committee from the GSIS to look into the operations of some offices with a view to introducing more efficient methods. He pointed out that the GSIS Committee's functions will be limited to suggesting more efficient procedure in these offices and will not extend to reorganizational recommendations of a permanent nature which properly belong to the Government Survey and Reorganization Commission. The GSIS group's work, however, is expected to assist the reorganization commission in its assignment.

Returning to Malacañang from the GSIS about 9:35 a.m., the President proceeded to his executive office, where he received some visitors.

Officials of the Colgate-Palmolive Company called on the President to inform him that the company was going to enlarge its Philippine branch. The Colgate-Palmolive officials who called were W. L. Sims II, international president; E. A. Spicka, international vice-president; W. B. B. Ferguson, international vice-president; J. M. Stevenson, general manager and vice-president of the Philippine branch; and E. Selph, lawyer of the company.

Other callers included Education Secretary Gregorio Hernandez, Jr., Rep. Vicente Peralta of Sorsogon, David Murphy, and Felix Arriola.

While the President was on his surprise visit to the GSIS, Executive Secretary Fred Ruiz Castro inducted into office Col. Napoleon D. Valeriano as acting Manila police chief, Felipe Cuaderno as director of posts, Jose Alfonso as director of telecommunications, and Rodolfo Maslog as commissioner of public highways.

At the regular Cabinet meeting this noon, the President took steps to iron out the rift between Agriculture Secretary Salvador Araneta and Labor Secretary Eleuterio Adevosio over a proposal to re-examine the Minimum Wage Law. The President clarified Araneta's actuations in sponsoring the move to re-examine the Minimum Wage Law, pointing out that the Agriculture Secretary has not proposed an outright reduction of the minimum wage, contrary to the public impression.

Araneta, he said, had in fact unequivocally stated that he did not believe the minimum wage should be disturbed in urban centers like Manila. What Araneta had been stressing, the President added, was the feasibility of re-adjusting the minimum wage levels according to regional conditions.

The President added further that the Administration could not ignore the clamor for re-examination of the Minimum wage Law expressed by responsible officials. He cited the resolution to this effect approved by provincial governors and city mayors at their recent convention as well as similar proposals made by some members of Congress.

The President announced his stand that "any changes in the Minimum Wage Law, if ever introduced, must be supported by the most compelling considerations upholding the national interest." In giving due course to the proposal for re-examination of the wage law, the President recalled that he had agreed with Acting Speaker Daniel Z. Romualdez to create a joint executive congressional team to survey the entire country on the question.

The President canvassed his Cabinet for nominees to represent the executive on the team and Dr. Jorge Bocobo, former president of the University of the Philippines, was suggested. The President said he hoped to meet soon with Acting Speaker Romualdez and Senate President Eulogio Rodriguez to ask them to name their respective representatives to the committee.

The President made known his views on the controversy at the start of the Cabinet meeting which was featured by the absence of

Secretary Araneta, who was on an inspection survey of the Mountain Province. Secretary Adevosio, who was present, reiterated his arguments in favor of the Minimum Wage Law, at the same time reassuring the President that he was determined to conduct any discussion of the issue objectively and dispassionately, without any reference to personality.

The Cabinet meeting also recommended Dr. Florencio Quintos, head of the pediatrics department of the Philippine General Hospital, to be director of the PGH. Dr. Sison has been retained as U. P. medical school dean. The recommendation for Dr. Quintos' appointment will be forwarded to the U. P. board of regents. The Cabinet also recommended Dr. Carmelo Reyes to serve with the GSIS committee as the PGH consultant.

The President referred to Education Secretary Hernandez a complaint from Bataan teachers alleging that they had been charged a "quota" of P40 each to defray expenses of the forthcoming Central Luzon Athletic Meet to be held in Balanga. The complaint further charged that the teachers also were being asked for "donations" of materials and supplies. The President instructed Hernandez to stop this practice and refund all sums that had been collected.

In this connection, Secretary Hernandez said his department was engaged in a thorough re-study of the problem of athletic meets with a view to reducing the financial burden on the government and residents of meet sites and making the competitions self-supporting instead. It was pointed out that about P5 million had been spent annually for these meets.

The Cabinet also:

(1) Approved a request for a new bonds float by the Central Bank of P3 million to finance the Sta. Cruz River and Mabacan River irrigation projects in Laguna which will irrigate a total of 7,200 hectares;

(2) Approved an allotment of P200,000 for the Social Welfare Administration to pay for relief supplies purchased in Davao for shipment to Cotabato at the height of the rat infestation; and,

(3) Set a special Cabinet meeting for Thursday, October 28, at 3:30 p.m., for briefing by the NARIC board on the operation of the NARIC rice-buying and distribution program.

President Magsaysay has declared Monday, November 1, a special public holiday. In previous years, this day had been declared a half-day holiday. This year it will be a whole-day holiday.

In the evening, the President ordered the impounding of the 8,000 bags of onions imported by the National Onion Growers Cooperative Marketing Association upon receipt of PCAC and ACCFA reports that a majority of the board of directors of the cooperative were not *bona fide* onion growers.

ACCFA Administrator Osmundo Mondoñedo simultaneously announced the evening that he was petitioning the court for receivership of the NOGROCOMA on several grounds among which was that the majority of its board of directors had made false pretenses with regard to their being onion growers.

Malacañang said that pending the decision of the court on Mondoñedo's petition for receivership, the onions would remain impounded.

Mondoñedo said that these steps have been taken to secure management of the cooperative for the protection of the interest of the more than 200 members who are genuine onion growers.

PCAC and ACCFA investigators who have been working on the case said that NOGROCOMA had already received the first shipment of onions worth about P350,000 from the sale of which the cooperative had realized some P320,000. It was reported that the 8,000 bags of onions now in the customs were the first arrivals of the second shipment.

Investigations of the organization of the onion growers' cooperative have established that a majority of the members of the board of directors are not *bona fide* onion growers, which is contrary to existing laws.

Only *bona fide* producers either as land owners or lessees and tenants are allowed to become members of cooperatives.

**October 28.**—**F**OR BREAKFAST guests, the President had a group of Vietnamese army officers who came here to observe psychological warfare methods employed by the AFP. Accompanied by Col. J. H. Banzon, the Vietnamese officers were Col. Lan, Capt. Gai, Lt. Minh, and Lt. Redick.

As part of psycho-war propaganda, the visitors will get training in news item fabrication under the PIO officer of Camp Murphy, it was learned.

The President after breakfast received the special House committee negotiating the surrender of Kamlon and told them to notify the Moro outlaw "to put up a white flag and surrender unconditionally."

The special House committee, composed of Reps. Domocao Alonto of Lanao, Luminog Mangelen of Cotabato, and Ombra Amilbangsa of Sulu, called on the President to report on the latest development in Mindanao.

The President made it clear that there would be no preliminary talks with Kamlon prior to his surrender. "He can discuss matters with the Government after his surrender," the President said, "and may be the Government will listen."

Armed Forces Chief of Staff Lieut. Gen. Jesus Vargas, who was present at the conference, told the Moro solons that the Moro outlaw would be assured of fair treatment by the Armed Forces. "He will be given fairness and justice," the AFP chief of staff said.

Turning down suggestions that a preliminary talk should be held with Kamlon before he surrenders, the President said that the Government may listen to the Moro outlaw only after he has surrendered. He also informed the Moro solons that the economic rehabilitation of Mindanao was going hand-in-hand with the peace-and-order campaign.

Also present at the conference, which lasted for about 20 minutes, were Sen. Tomas Cabili and Datu Udtog, prominent Moslem Filipino leader.

At the request of a group of PTA members from San Juan, Batangas, the President directed Public Works Secretary Vicente Orosa to release P10,000 for the construction of a barrio schoolhouse. The PTA delegation was accompanied by San Juan Mayor Vicente Castillo.

Meanwhile, Malacañang described as erroneous the story in the newspaper that President Magsaysay would read the consecration act at the celebration of the Feast of Christ the King in Manila on Sunday, October 31. The act will be read not by the President but by Commerce Secretary Oscar Ledesma.

The President received this day a total of P1,716.64 for the Liberty Wells fund from Filipinos and American businessmen in Chicago and Los Angeles. The checks were presented to the President by Assistant Executive Secretary Enrique C. Quema. Cosme Brazil, president of the Magsaysay-Garcia Club in the United States, sent the checks to Malacañang.

Other callers were Reps. Miguel Cuenco of Cebu, Rogaciano Mercado of Bulacan, and Jose Puey of Negros Occidental, and Federico Sioson, president of the Iloilo Weavers Association.

During the special meeting of the Cabinet held at the Council of State room in the afternoon, newsmen covering Malacañang had a share of the national spotlight as they sat behind Cabinet members. Now and then the newsmen were asked by the President about their opinions and at times were allowed to participate in the discussions of problems of state.

Political observers were quick to claim it was a step further than President Eisenhower's televised Cabinet session in Washington last Monday. It was the first time Manila newsmen were admitted inside the

Cabinet meeting. Newsmen usually linger outside the Cabinet session room, peeping now and then through the keyhole.

Labor Secretary Eleuterio Adevosio and Agriculture Secretary Salvador Araneta were conspicuously absent from the Cabinet meeting. The President also noted that NARIC General Manager Juan O. Chioco, whose presence was expected because the Cabinet was scheduled to be briefed on the proposed NARIC revamp, was not around during the meeting.

Col. Jacinto Gavino, the Army man in the NARIC, briefed the members of the Cabinet on the proposed revamp. He said that he got his data from Dr. Bernardo Acenas but government authorities have not given importance to them.

"He may be a Liberal," the President quipped with one of his occasional flashes of humor. Acenas blushed, and all the Cabinet members and the newsmen laughed.

When Col. Gavino referred to NARIC Director Conrado Estrella as "next governor of Pangasinan," the President corrected him, saying: "Don't say that. Mr. Luciano Millan of the *Manila Daily Bulletin* will resent it." Millan has often been referred to by Columnist Celso Cabrera of the *Manila Chronicle* as the ex-future governor of Pangasinan.

After Col. Gavino had briefed the Cabinet members on the proposed reorganization of the NARIC, the President turned to the newsmen whom he called as "my junior Cabinet," for their opinion. All the newspapermen approved the reorganization plan, except Millan, who called the proposal "fanciful."

The President observed that when newsmen were around, the Cabinet members worked fast. The Cabinet members slashed through their agenda in a record pace of two hours. He said he will invite newsmen to Cabinet meetings from time to time. It's a step at popular democracy, he said.

#### The Cabinet:

(1) Approved a request of Co Kian, *alias* Co Kian Co., that he be allowed to leave the country voluntarily for Hongkong instead of being forcibly deported to Taipeh. Co had been ordered shipped to Taipeh in 1951 for violation of the Price Control Law, but this has not been done because of the Nationalist Government's refusal to receive him. However, in approving his request to be permitted to leave for Hongkong, the Cabinet stressed this case was not to be regarded as setting a policy of permitting deportees to choose their own ports of deportation. Individual cases will be decided on their respective merits, it ruled.

(2) Approved the sale by the RFC of parts of the one-hectare-plus property in Baguio on which the Vice-President's summer residence is located. This property had been turned over to the Philippine Government by its owners in exchange for surplus property, and later it was transferred to the RFC for a value of P296,000 as part of payment of the government's subscription to the capital stock of the RFC. The Cabinet approved the sale with the stipulation that the Vice-President will be allowed to choose which part of the grounds to offer for sale, in order to preserve the physical beauty of the site.

(3) Approved, on recommendation of Budget Commissioner Dominador Aytona, the release of P167,000 for the Bureau of Telecommunications for the employment of additional personnel urgently needed to keep its operation at normal efficiency levels; and

(4) Approved immediate release of P900,000-plus to the Bureau of Posts to enable the latter to settle its obligations with PAL and in turn enable the PAL to effect a partial return to stockholders of capital stock. The Bureau of Posts' actual obligation with PAL amounts to more than P3 million, but since more than P2 million of this amount will go eventually to the National Development Company as its partici-

pation in this capital return of PAL, the Cabinet decided to approve the immediate release only of the difference of more than P900,000.

During the Cabinet meeting the President decided to take drastic punitive measures against members of the National Onion Growers Cooperative Marketing Association (NOGCOMA), which was allegedly controlled by dummies of a Chinese-Filipino trader. The President created a three-man committee to study what punitive action the Government could take.

Justice Secretary Pedro Tuason will head the committee with Col. Osmundo Mondoñedo of the ACCFA and Manuel Manahan of the PCAC as members.

Earlier, Mondoñedo sought to freeze the assets of the NOGCOMA when he asked the solicitor general to petition the courts to place the association under receivership. The President advised him, however, to see Secretary Tuason first to study the legal aspects of the case before proceeding with the petition.

Irrked by reports that the association was controlled by dummies who are not *bona fide* onion growers, the President threatened drastic government action against those who would "cheat us."

However, to prevent the association's onion shipment from rotting the President ordered Customs Commissioner Edilberto David to transfer the goods, totalling 8,000 bags and valued at over P23,000 impounded last Tuesday, to the Insular Cold Storage plant.

**October 29.—** **A**T A BREAKFAST conference with Sen. Macario Peralta, Jr., and Rep. Cornelio Villareal, acting president of the Liberal Party, the President assured the Liberal Party that he would not allow any persecution in his administration.

The two Liberal Party leaders aired their gripes about some Liberal governors and mayors who had been suspended, and brought up the case of Cavite Governor Dominador Camerino and his possible successor. Gov. Camerino had been suspended but has filed a letter of resignation with the President.

The Chief Executive told Peralta and Villareal the resignation of Camerino was still under study. The breakfast conference lasted about 30 minutes.

After the breakfast with the LP leaders, the President inducted Salvador Lluch into office as acting governor of Lanao, vice Lt. Col. Jorge Sanchez, who had been acting military governor. At the induction, the President said he was glad that there was unity in Lanao among the three major political parties. The new governor of Lanao, a former congressman, was endorsed by the leaders of the Nacionalista, Democratic, and Liberal parties in Lanao.

Present at the induction were Senators Tomas Cabili and Macario Peralta, Jr., Reps. Domocao Alonto and Cornelio Villareal, Mayor Benito Labao of Iligan City, and Atty. Dominador Padilla.

The President also issued a directive to Manila Mayor Arsenio Lacson instructing him to have the Manila police look into reports that NARIC retailers in the city were selling Naric rice above the price set by the government.

The President, before leaving for an undisclosed place with a batch of state papers, acknowledged the receipt of the equivalent of three months salary of Acting Collector of Internal Revenue J. Antonio Araneta. Collector Araneta has pledged his full salary to the Liberty Wells fund.

The Chief Executive also authorized the release of P15,000 for the purchase of two turbine engines for the waterworks of Iligan City. The amount was requested by Iligan Mayor Benito Labao.

The President this day authorized the release of P4 million for the operation of rural health units which would attend to the medical needs of the barrio people. Rural health units were created by Republic Act No. 1082 to strengthen health services in the rural areas. According to the law, the rural health units would be brought up to a total of 1,300 distributed all over the country within a period of four years.



Rural health units will be either one of two groups, the first group composed of a physician, a public health nurse, a midwife, and a sanitary inspector; the other group composed of one physician or a nurse with a midwife or a sanitary inspector. Which group will serve any given community will depend on the kind of supplementary health facilities available in such community.

The activities of the rural health units will include consultation, treatment, immunization, deliveries, home visits, health education, sanitary campaign, and registration in the rural areas.

The methods to be used by the rural health unit teams would be to approach one barrio after another on a definite schedule. The rural health units will function under the direct supervision of the secretary of health.

In the afternoon, the President launched his P200 million five-year highway improvement program by motoring to San Pedro Tunasan, Laguna, where he watched the ground-breaking of the construction of the 4.27-kilometer concrete road joining Rizal to the Laguna boundary road.

This concrete road is the first of 14 projects already approved to be constructed under the P200 million bond issue for the five-year program.

The President left Malacañang at 4 p.m. accompanied in two other cars by newspapermen covering Malacañang. Together with him in the presidential car were Public Works Secretary Vicente Orosa, Undersecretary Juan G. Paraiso, and Highways Commissioner Rodolfo Maslog. He arrived at the construction site in San Pedro Tunasan at about 4:25 p.m.

The President upon alighting from his car was met by Project Engineer Conrado Santiago, Laguna District Engineer Mariano Dy Reyes, Col. Alfredo M. Santos, commanding officer of the 2nd MA, and officials of the company undertaking the construction work.

The Chief Executive was informed that the total cost of the concrete road will amount to more than P2 million and that it will consume 78,000 bags of cement and will take about 360 days to finish.

The President inspected the different construction equipment busily grading the road and expressed satisfaction that the first of the projects had already been begun.

The Chief Executive was informed by Secretary Orosa that the 80-kilometer asphalt road being constructed between Tuguegarao and Ilagan, in the Cagayan Valley, which is one of the projects on the road building program of the Administration, was being done under the supervision of the Department of Public Works and Communications.

He was further informed that of the 14 projects envisioned by the department, 11 have already been advertised and eight bids have already been awarded.

Secretary Orosa informed the President that work on all projects which had already been bidden and awarded would start next month. He further informed the President that in the first year, P20 million would be spent and in the second year, P30 million. This program, aside from providing a speedy transportation of products from the barrios to the towns, will also provide employment to thousands of people throughout the country.

The President returned to Manila at about 5 p.m.

From the Tunasan Estate, the President went to Fort McKinley for his weekly horseback-riding relaxation.

At 9 o'clock in the evening, the President and the First Lady attended the Country Fair at the Malacañang Park, which opened this day in connection with the 1954 Peace and Amelioration Fund Drive. They watched the exhibition dances performed at the fair.

**October 30.**—**P**RESIDENT MAGSAYSAY held a breakfast conference this morning with members of the Malacañang committee which investigated the activities of fraternities and sororities of the University of the Philippines.

The committee members, led by Executive Secretary Fred Ruiz Castro, discussed with the President their recommendations that drastic action be taken against some UP officials but left the way open for the Chief Executive to decide on the fate of Vidal A. Tan, president of the State University.

Members of the Castro committee found Dr. Tan wanting in "directing leadership" to head the State University. Other members of the committee were Prof. Vicente Lontok and Dr. Arturo Garcia.

After having breakfast with the Castro committee, the President motored to Fort Wm. McKinley, where he was honored with a parade and review by about 3,000 soldiers in Fort Wm. McKinley after which he pinned medals on seven persons for outstanding services rendered to the Philippine Government.

On horseback while reviewing the parade, the President was well applauded as he passed by the grandstand. Brig. Gen. Alfonso Arellano, commanding officer of Fort McKinley and of the parading troops, joined the President in reviewing the troops.

The persons who were awarded medals were:

Undersecretary of Foreign Affairs Raul Manglapus—Philippine Legion of Honor (Officer) for outstanding service to the allied cause during the entire period of enemy occupation.

Maj. Gen. Rafael Jalandoni, former chief of staff—Distinguished Service Star and Philippine Legion of Honor for eminent service as chief of staff, and meritorious conduct in the performance of outstanding services from December 18, 1945 to June 20, 1946.

Col. Manuel T. Flores—Distinguished Service Star for meritorious and valuable service as former deputy area commander of IMA.

Maj. Melencio O. Orbase—Philippine Legion of Honor for outstanding services rendered during the occupation period in Mindanao.

Brig. Gen. Florencio Selga—Military Merit Medal for safeguarding the polls in the national elections of November 1953.

Lt. Col. Burgos Sayoc—Military Merit Medal for outstanding service as commanding officer of the First Station Hospital.

Staff Sergeant Remigio Rojo—Military Commendation Medal for exemplary conduct and outstanding service as member of the 20th BCT in Korea.

The President motored to Fort McKinley at about 9 a.m. and immediately reviewed the parade after his arrival.

High government, diplomatic, and military officials were present at the parade. Philippine Constabulary soldiers, 20-year old trainees, and the Cavalry squadron of Col. Jacobo Zobel took part in the parade.

At about noon, the Chief Executive flew to Camarines Norte and released 2,500 hectares of land to about 1,250 settlers.

President Magsaysay this day released 2,500 hectares of agricultural land in barrio Plaridel, Basud, Camarines Norte, to about 1,200 settlers who had cleared the land.

The President, together with Undersecretary of Agriculture Jaime Ferrer, AFP Chief of Staff Lt. Gen. Jesus Vargas, Brig. Generals Eulogio Balao, Pelagio Cruz, and Alfonso Arellano, and Director of Lands Zoilo Castrillo flew to Camarines Norte to look into the problems of the settlers.

The 2,500-hectare agricultural land given to the settlers was formerly forestry land but the President told the Department of Agriculture officials with him to reclassify and subdivide it among the settlers.

When informed by one of the settlers that some persons were posing as government agents and collecting money from the settlers, the President warned the settlers that if he would hear of anybody giving money to such persons, he would order the cancellation of the land grant.

"Nobody is closer to me or to the government than you, the people; that is why I am here now instead of waiting for you to come to me," the President said.

The Chief Executive was informed about the problems of the settlers by the officers of the Free Farmers Association who were also with the presidential party; namely, Jeremias Montemayor, Fernando Esguerra, and Eduardo Tiangco.

The President expressed anger when informed of the collections being done by some persons among the settlers. He told the settlers not to give contributions to anybody.

"The Government knows that you are poor people and I have not authorized anybody to represent the Government and collect money for the settlement of your problems," the President said.

The President added: "You do not owe any favors from anybody. You are getting this land free because the Government is giving it to you and it is from the Government that you owe the favor."

Talking to the settlers one by one, the President told them not to clear any more of the forestry land around them. He said that the 2,500 hectares that the Government gave were more than enough for all of them.

According to the settlers, they had been clearing and planting the 2,500-hectare land since after liberation and they had applied for settlement in 1947. They expressed gratitude for the President's kindness toward them.

The settlers comprise about 250 families, and the land will be subdivided among them at 8 hectares for each family.

Arriving at the Daet airport 12:30 p.m., the President boarded a car and motored directly to barrio Plaridel in the town of Basud about 20 kilometers from Daet. The settlers, not expecting the President, were surprised when they saw him calling for them to listen to their problems.

Rep. Fernando Pajarillo and Gov. Wilfredo Panotes of Camarines Norte joined the President later at the barrio and were as much surprised as the settlers.

**October 31.**— **A**FTER HEARING an early mass at the Malacañang chapel with his family, the President had breakfast with some friends.

He later received Mrs. Maurice Moore, the national board of the YWCA of the United States, and Mrs. Leslie R. Severinghaus who were accompanied by Bessie Hackett of the *Bulletin* to Malacañang.

The President went over some state papers. One of them, it was learned, was the voluminous report of the three-man Castro committee which investigated the activities of the fraternities and sororities of the University of the Philippines.

In the afternoon, the President left Malacañang. Nobody knew where he went. It was presumed he boarded his yacht *Pagasa* to relax.

The President today reiterated that he had never authorized the sale of land in the People's Homesite and Housing Corporation area for the ridiculous price of P3 per square meter to Dr. Eliodoro Congco.

The President said that when Undersecretary of Health Rafael Tumbokon and Dr. Congco saw him and asked if he was in favor of having a hospital with ten beds free for the homesite residents, he answered that he approved the idea, as he had been made to understand that PHHC officials did not want to build a hospital in the district. The President said that he did not talk about the price with Tumbokon and Congco, adding that they should take up that detail with the PHHC board. Tumbokon and Congco saw the President only two minutes.

Regarding reports that the President had approved the P3 per square meter sale, the Malacañang spokesman said that Undersecretary Tumbokon either misunderstood the President or misrepresented him about the matter.

On the PHHC board's previous approval of the P3 per square meter sale, the spokesman added that the board had been negligent in performing its duty as it should have first verified if the reported order was given by the President. The spokesman added that it is the practice of the President to write personally any official when he wanted things done. In the case of the Congco deal, the President did not give any written instructions.

The spokesman added that even before Tumbokon and Congco called on the President, Secretary Orosa had informed him that they had already offered an even higher price of P4 per square meter. This indicated clearly that when they talked to the President there was bad faith, the spokesman said.



## EXECUTIVE ORDERS, PROCLAMATIONS AND ADMINISTRATIVE ORDERS

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 70

CREATING AN ASIAN GOOD NEIGHBOR RELATIONS COMMISSION TO PROMOTE MORE INTIMATE UNDERSTANDING OF THE AIMS AND ASPIRATIONS OF THE FILIPINO PEOPLE, BETTER APPRECIATION OF THEIR CULTURE AND PROGRESS AS A CHRISTIAN AND DEMOCRATIC NATION, AND CLOSER RELATIONS WITH THEIR ASIAN NEIGHBORS

WHEREAS, from time immemorial the Philippines has had direct and intimate relations with Asian countries, even ante-dating the age of European discovery of the Archipelago;

WHEREAS, racially and geographically, we, Filipinos, belong to the great family of Asian nations;

WHEREAS, in our own interest as well as that of the Asian family of nations as a group, it is highly desirable that not only should we know our fellow Asians better and cooperate with them more for mutual benefit but that our aims and aspirations as a people should also be more widely understood and appreciated by them;

WHEREAS, with our Christian religion, Occidental civilization and democratic pattern of life and progress, we have a mission to discharge and a service to render towards our fellowmen in Asia and, together with them, a common obligation to contribute our utmost towards the advancement and welfare of all humanity;

WHEREAS, in keeping with our democratic faith and cherished humanitarian traditions and ideals, we should consider it to be our nation's duty to spread the blessings of freedom in our area and share with our neighbors and racial kin the bountiful legacy which has become ours as the first independent Republic in Asia;

WHEREAS, it would be to the greater advantage of the peoples of Asia that they themselves maintain in a steady stream the exchanges of their culture, the products of their industry, the goods of commerce and even their current thoughts and views on matters of common concern to them; and



WHEREAS, it should be the aim of all Asians to pool their wisdom, their talents, their spiritual, moral and material resources, and all their energies in a determined and coordinated effort to safeguard and advance their common heritage and interests, and, as a group, to contribute more and more substantially to the progress, prosperity and happiness of all mankind;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, pursuant to the powers vested in me by law, do hereby order:

1. A Commission is hereby created, composed of nine members to be designated by the President, whose functions shall be:

(a) To promote a more intimate understanding of the aims and aspirations of our people with a view to their wider appreciation among our Asian neighbors;

(b) To adopt measures and undertake practical projects for bringing about closer good neighbor relations and more effective cooperation among Asian peoples;

(c) To encourage greater intercourse, intelligent interest in each other's welfare, problems and potentials, and a spirit of mutual understanding and solidarity among Asians; and

(d) To establish and maintain steady media for regular exchanges of information, knowledge, experience, services and products in the various fields of human endeavor for the common benefit of all.

2. The Commission shall undertake studies, observations and surveys with which to guide itself both in drawing up and in carrying out a program of activities in pursuance of this order.

3. The Commission shall initiate such undertakings and carry out such projects as it may deem necessary for the attainment of the aims herein set forth and, from time to time, create such groups as it may wish to entrust with specific tasks essential to the full implementation of its program.

4. The Commission may draw from any available sources the best materials and services calculated to facilitate the realization of the purposes for which it is being created and all branches, agencies and instrumentalities of the government as well as all private individuals and entities are enjoined to render maximum assistance.

5. The Commission may, in its discretion, accept, administer and make use of any donations, contributions, endowments and bequests as it may receive towards the achievement of the objectives of this order.

6. Whenever the Commission, its members and those it calls upon to render service to advance its program are in the process of discharging specifically assigned missions abroad, they shall enjoy such privileges and immunities as are normally accorded to those specially dispatched overseas on official business.

7. The Commission shall function under the immediate supervision and control of the President of the Philippines and it shall report on its activities directly to him.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 71

MERGING THE BARRIO OF LIMBA, MUNICIPALITY  
OF LA PAZ, PROVINCE OF LEYTE, WITH THE  
POBLACION OF SAID MUNICIPALITY

Upon the recommendation of the Provincial Board of Leyte and pursuant to the provisions of section 68 of the Revised Administrative Code, the barrio of Limba, municipality of La Paz, Province of Leyte, is hereby merged with the poblacion of said municipality.

This Order shall take effect immediately.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 72

TERMINATING THE COLLECTION OF TOLLS AT  
THE DIGDIG TOLL BRIDGE, PROVINCE OF  
NUEVA ECIJA

The total cost of the Digdig Toll Bridge, in the Province of Nueva Ecija, plus interest at the rate of 4 per cent per annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended, it is hereby ordered that the collection of tolls at the Digdig Toll Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the Provincial Treasurer of Nueva Ecija.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 73

CREATING A SPECIAL COMMITTEE TO DETER-  
MINE PRESENT AND FUTURE REAL ESTATE  
REQUIREMENTS FOR THE NATIONAL DEFENSE  
PROGRAM

For the purpose of investigating and determining the most expeditious, feasible and economical method of liquidating and disposing of real estate comprising military reservations acquired or to be acquired from the United States which are not presently utilized or programmed for use by the Armed Forces and of procuring by the Government of such lands as may be required for the present and future national defense program with due regard to furthering the Philippine effort of mutual defense with the United States, I, Ramon Magsaysay, President of the Philippines, do hereby create a special committee, composed of the following:

Hon. Sotero Cabahug, Secretary of National Defense....	Chairman
Hon. Pedro Tuason, Secretary of Justice .....	Member
Hon. Ambrosio Padilla, Solicitor General .....	Member
Lieut. General Jesus Vargas, Chief of Staff, Armed Forces of the Philippines .....	Member
Brig. General Pelagio A. Cruz, Commanding General, Philippine Air Force .....	Member
Commodore Jose M. Francisco, Flag Officer in Command, Philippine Navy .....	Member

The Committee is authorized to meet with appropriate United States officials to jointly determine the present and future real estate requirements for defense installations in the Philippines for the actual defense program.

The Committee is also authorized to call upon any Department, bureau, office, agency or instrumentality of the Government, or upon any officer or employee thereof, for such assistance and information as it may require in the performance of its work and, for the purpose of securing such information, it shall have access to, and the right to examine, any books, documents, papers, or records thereof.

The Committee shall submit its findings and recommendations to the President of the Philippines within the shortest possible time.

Done in the City of Manila, this 30th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 74

TERMINATING THE COLLECTION OF TOLLS AT THE  
MANDULOG TOLL BRIDGE, CITY OF ILIGAN

The total cost of the Mandulog Toll Bridge, in the City of Iligan, plus interest at the rate of 4 per cent per annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended, it is hereby ordered that the collection of tolls at the Mandulog Toll Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the City Treasurer of Iligan City.

Done in the City of Manila, this 13th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

## MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 75

TERMINATING THE COLLECTION OF TOLLS AT THE  
LIBUNGAN TOLL BRIDGE, PROVINCE OF COTABATO

The total cost of the Libungan Toll Bridge, in the Province of Cotabato, plus interest at the rate of 4 per cent per annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended, it is hereby ordered that the collection of tolls at the Libungan Toll Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the Provincial Treasurer of Cotabato.

Done in the City of Manila, this 13th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

## MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 76

TERMINATING THE COLLECTION OF TOLLS AT  
THE CAGAYAN TOLL BRIDGE, CAGAYAN DE  
ORO CITY.

The total cost of the Cagayan Toll Bridge, Cagayan de Oro City, plus interest at the rate of 4 per cent per annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended, it is hereby ordered that the collection of tolls at the Cagayan Toll Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the City Treasurer of Cagayan de Oro City.



Done in the City of Manila, this 15th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 77

TRANSFERRING THE REMAINS OF WAR DEAD INTERRED AT BATAAN MEMORIAL CEMETERY, BATAAN PROVINCE, AND AT OTHER PLACES IN THE PHILIPPINES TO THE REPUBLIC MEMORIAL CEMETERY AT FORT WM MCKINLEY, RIZAL PROVINCE

WHEREAS, the Armed Forces of the Philippines is maintaining the Bataan Memorial Cemetery in the Province of Bataan and the Republic Memorial Cemetery in Fort Wm McKinley, Rizal province, thereby splitting the expenses of maintenance and upkeep therefor;

WHEREAS, there are other remains of our war dead interred at other places throughout the Philippines which are not classified as cemeteries;

WHEREAS, the said cemetery in Bataan province and the other places in the Philippines where our dead war heroes are interred are not easily accessible to their widows, parents, children, relatives, and friends and

WHEREAS, in the national observance of the occasion honoring the memory of these war dead, it is fitting and proper that their remains be interred in one national cemetery;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby order that the remains of the war dead interred at the Bataan Memorial Cemetery, Bataan province, and at other places in the Philippines, be transferred to, and reinterred at, the Republic Memorial Cemetery at Fort Wm McKinley, Rizal province.

Done in the City of Manila, this 23rd day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 72

RESERVING AS THE SABLAYAN PENAL COLONY  
AND FARM OF THE BUREAU OF PRISONS A  
CERTAIN PARCEL OF THE PUBLIC DOMAIN SIT-  
UATED IN THE MUNICIPALITY OF SABLAYAN,  
PROVINCE OF OCCIDENTAL MINDORO, ISLAND  
OF MINDORO

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of section 83 of Commonwealth Act No. 141, as amended, I, Ramon Magsaysay, President of the Philippines, do hereby withdraw from sale or settlement and reserve as the Sablayan Penal Colony and Farm, under the administration of the Bureau of Prisons, subject to private rights, if any there be, and to future classification and final survey, and to the condition that the timber and other forest products therein as well as the use and occupancy of the areas indicated as timber land or forest reserve shall be placed under the administration and control of the Bureau of Forestry in accordance with the Forest Laws and Regulations, a certain parcel of the public domain situated in the Municipality of Sablayan, Province of Occidental Mindoro, Island of Mindoro, more particularly described as follows:

*Technical Description of the Proposed Site of the Sablayan Rehabilitation Farm (Bureau of Prisons), situated in the municipality of Sablayan, Province of Mindoro Occidental.*

A parcel of land (the proposed site of Sablayan Rehabilitation Farm, Bureau of Prisons), situated in the municipality of Sablayan, Province of Mindoro Occidental. Bounded on the N., by Rayusan River; on the NE., E. and SE., by Public Forest; on the S., by Calintaan Public Lands Subdivision PLS-15 (PHILCUSA-FOA); on the SW., by Calintaan Public Lands Subdivision PLS-15 (PHILCUSA-FOA) and Public Forest; and on the NW., by Mompong

River and Sablayan Public Lands Subdivision PLS-14 (PHILCUSA-FOA). Beginning at a point marked 1 on plan, being situated in the south bank of Rayusan River, thence following the Rayusan River in a southeasterly direction 2,880.00 meters to point 2; thence S. 32° 00' E., 200.00 meters to point 3; thence S. 52° 00' W., 960.00 meters to point 4; thence S. 37° 00' E., 3,720.00 meters to point 5; thence following Kinarawan River in a southeasterly direction 8,920.00 meters to point 6; thence S. 59° 00' W., 6,800.00 meters to point 7; thence S. 11° 00' W., 1,400.00 meters to point 8; thence S. 45° 00' E., 840.00 meters to point 9; thence following Maltongtong River in a southward direction 2,200.00 meters to point 10; thence due south, 4,200.00 meters to point 11; thence due west, 2,200.00 meters to point 12; thence N. 34° 00' W., 450.00 meters to point 13; thence following Busuanga River in a north-northwesterly direction 2,300.00 meters to point 14; thence S. 56° 00' W., 1,175.00 meters to point 15; thence N. 56° 00' W., 1,075.00 meters to point 16; thence N. 18° 00' W., 450.00 meters to point 17; thence N. 11° 00' W., 950.00 meters to point 18; thence N. 18° 00' W., 750.00 meters to point 19; thence N. 56° 00' E., 325.00 meters to point 20; thence N. 50° 00' E., 275.00 meters to point 21; thence N. 46° 00' E., 450.00 meters to point 22; thence N. 39° 00' E., 225.00 meters to point 23; thence due east, 2,200.00 meters to point 24; thence N. 10° 00' E., 680.00 meters to point 25; thence N. 59° 00' W., 160.00 meters to point 26; thence S. 76° 00' W., 440.00 meters to point 27; thence N. 33° 00' W., 1,040.00 meters to point 28; thence following Pusog Creek in a northeasterly direction 1,080.00 meters to point 29; thence N. 45° 00' W., 160.00 meters to point 30; thence S. 65° 00' W., 320.00 meters to point 31; thence S. 60° 00' W., 160.00 meters to point 32; thence S. 58° 00' W., 680.00 meters to point 33; thence S. 12° 00' W., 720.00 meters to point 34; thence S. 37° 00' W., 560.00 meters to point 35; thence N. 69° 00' W., 120.00 meters to point 36; thence N. 16° 00' W., 360.00 meters to point 37; thence N. 2° 00' W., 240.00 meters to point 38; thence N. 38° 00' E., 520.00 meters to point 39; thence N. 28° 00' W., 120.00 meters to point 40; thence S. 52° 00' W., 440.00 meters to point 41; thence N. 50° 00' W., 520.00 meters to point 42; thence N. 35° 00' E., 280.00 meters to point 43; thence N. 36° 00' W., 800.00 meters to point 44; thence N. 18° 00' E., 200.00 meters to point 45; thence N. 29° 00' E., 900.00 meters to point 46; thence due north, 320.00 meters to point 47; thence N. 87° 00' W., 880.00 meters to point 48; thence N. 60° 00' W., 400.00 meters to point 49; thence N. 20° 00' W., 400.00 meters to point 50; thence N. 35° 00' E., 880.00 meters to point 51; thence N. 28° 00' W., 240.00 meters to point 52; thence S. 85° 00' W., 520.00 meters to point 53; thence N. 50° 00' W., 640.00 meters to point 54; thence N. 45° 00' W., 200.00 meters to point 55; thence N. 38° 00' W., 760.00 meters to point 56; thence N. 86° 00' W., 800.00 meters to point 57; thence N. 8° 00' W., 1,200.00 meters to point 58; thence N. 29° 00' E., 520.00 meters to point 59; thence N. 52° 00' E., 1,130.00 meters to point 60; thence N. 67° 00' E., 760.00 meters to point 61; thence N. 62° 00' E., 640.00 meters to point 62; thence following Mompong River in a northeasterly direction 720.00 meters to point 63; thence following Mompong River in a northeasterly direction 1,000.00 meters to point 64; thence following Mompong River in a southeasterly direction 1,120.00 meters to point 65; thence N. 12° 00' E., 1,080.00 meters to point 66; thence N. 57° 40' E., 600.00 meters to point 67; thence N. 32° 20' W., 500.00 meters to point 68; thence N. 57° 40' E., 806.00 meters to point 69; thence N. 32° 19' W., 506.00 meters to point 70; thence N. 57° 40' E., 606.00 meters to point 71; thence N. 32° 37' W., 1,000.00 meters to point 72; thence N. 57° 41' E., 400.00 meters to point 73; thence N. 32° 37' W., 481.24 meters to point 74; thence N. 57° 42' E.,

1,200.00 meters to point 75; thence N. 32° 18' W., 500.00 meters to point 76; thence N. 57° 41' E., 400.00 meters to point 77; thence N. 37° 16' W., 500.00 meters to point 78; thence N. 57° 42' E., 200.00 meters to point 79; thence N. 32° 17' W., 500.00 meters to point 80; thence N. 57° 41' E., 600.00 meters to point 81; thence N. 32° 17' W., 501.00 meters to the point of beginning; containing an approximate area of 16,190 hectares, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: points 1 to 12 and 14 by corners; point 50, by stones; points 58 and 66 to 81, inclusive, by B. L. cylindrical concrete monuments; and the rest, by different trees; bearings true.

NOTE.—There are excluded from the operation of this proclamation a strip of 15 meters in width on each side of any public trail therein used as outlet for timber and other forest products, and a strip of 40 meters in width from the highest bank on each side of any stream for stream bank protection, in such areas that will be released as not needed for forest purposes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 73

EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 637 DATED NOVEMBER 23, 1933, CERTAIN PARCELS OF LAND EMBRACED THEREIN SITUATED IN THE BARRIO OF DALWANGAN, MUNICIPALITY OF MALAYBALAY, PROVINCE OF BUKIDNON, ISLAND OF MINDANAO, AND DECLARING THE SAME OPEN TO DISPOSITION UNDER THE PUBLIC LAND ACT

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of sections 83 and 88 of Commonwealth Act No. 141, as amended, I hereby exclude from the operation of Proclama-

tion No. 637 dated November 23, 1933, certain parcels of land embraced therein, otherwise described as lots Nos. 7 and 11 of the Bureau of Lands plan IR-329, containing a total area of 253.4551 hectares more or less, situated in the barrio of Dalwañgan, municipality of Malaybalay, Province of Bukidnon, Island of Mindanao, and declare the same open to disposition under the provisions of the Public Land Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 74

REVOKING PROCLAMATION NO. 515 DATED NOVEMBER 7, 1932, AND DECLARING OPEN TO DISPOSITION UNDER THE PROVISIONS OF THE PUBLIC LAND ACT THE PARCEL OR PARCELS OF LAND COVERED THEREBY SITUATED IN THE BARRIO OF TANABAG, MUNICIPALITY OF PUERTO PRINCESA, PROVINCE AND ISLAND OF PALAWAN

Upon recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of section 88 of Commonwealth Act No. 141, as amended, I hereby revoke Proclamation No. 515 dated November 7, 1932, and declare the parcel or parcels of land covered thereby situated in the Barrio of Tanabag, Municipality of Puerto Princesa, Province and Island of Palawan, open to disposition under the provisions of the said Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.



Done in the City of Manila, this 30th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PREIDENT OF THE PHILIPPINES

PROCLAMATION No. 75

DECLARING THE LAST WEEK OF OCTOBER, 1954,  
AS PUBLIC ADMINISTRATION WEEK

WHEREAS, one of the principal and immediate objectives of this administration is to achieve efficiency in the public service; and

WHEREAS, in order to attain this objective, it is necessary to focus national attention to the problem by designating a period during which all the officials and employees of the Republic of the Philippines in particular and the people in general may devote their time, thought and energies to helping in the solution of said problem;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the last week of October, 1954, as Public Administration Week and designate the Executive Secretary to take charge of, and coordinate, all activities in the celebration of said week.

I hereby enjoin all offices in the national, provincial, city and municipal governments, as well as all universities, colleges and schools throughout the country to participate actively in the celebration by holding practical projects, programs, demonstrations or similar activities with efficient public administration as the theme.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 30th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 76

DECLARING THE PERIOD FROM OCTOBER 24 TO  
31, 1954, AND EVERY WEEK BEGINNING WITH  
THE FOURTH SUNDAY OF EVERY OCTOBER  
THEREAFTER AS BARRIO FARMERS' WEEK

WHEREAS, there are fifteen million Filipinos living in the rural areas under economic and social conditions which call for more desirable improvement;

WHEREAS, national progress may be advanced a great deal by pursuing a program of amelioration operating at the barrio level and which aims to broaden the opportunities of the people for developing human and natural resources available in rural areas; and

WHEREAS, it is essential to focus public attention on the requirements and capacities of our barrios, to foster rural-mindedness and leadership among the barrio people, and to stimulate nationwide efforts of self-help towards rural betterment;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the period from October 24 to 31, 1954 and every week beginning with the fourth Sunday of every October thereafter, as Barrio Farmers' Week and authorize and direct municipal, provincial and national government officials to make available their facilities and personnel in the successful prosecution of the objectives of the Barrio Farmers' Week, and designate the Department of Agriculture and Natural Resources to take charge of, and coordinate, all activities in commemoration of said week. I also urge civic-spirited citizens and civic organiza-

tions to cooperate wholeheartedly to insure the success of this observance.

Proclamation No. 398, dated June 16, 1953, on Barrio Improvement Week is hereby repealed.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 12th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 77

RESERVING FOR SCHOOL SITE PURPOSES CERTAIN  
PARCELS OF THE PRIVATE DOMAIN OF THE  
GOVERNMENT SITUATED IN THE CITY OF  
TAGAYTAY

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of section 64(c) of the Revised Administrative Code in relation to section 1 of Republic Act No. 477, I hereby withdraw from sale or settlement and reserve for school site purposes, under the administration of the Bureau of Public Schools, subject to private rights, if any there be, certain parcels of the private domain of the Government, situated in the City of Tagaytay, and more particularly described as follows:

*Transfer Certificate of Title No. 474*

A parcel of land (lot No. 36 of the amendment subdivision plan, Psu-88294, Adm. 3 being a portion of lot No. 7, Psu-68294, G.L.R.O. Record No. 46984), situated in the barrio of Bayayunigan, municipality of Talisay, Province of Batangas, Island of Luzon (now City of Tagaytay). Bounded on the NE., by lot No. 35 of the amendment subdivision plan; on the SE., by lot No. 1, Psu-75410 (heirs of Francisco Malabanan); on the SW., by lot No. 37 of the amendment subdivision plan; on the NW., by lot No. 6, Psu-96841 Amd. (Tagaytay Development Company). Beginning at a point marked 1 on plan, Psu-88294, Amd-3, being S. 39° 49' E., 7,322.83 meters more or less from B.L.B.M. No. 1, municipality of Alfonso; thence S. 84° 48' E., 41.32 meters to point 2; thence N.

21° 22' W., 87.53 meters to point 3; thence N. 68° 07' E., 39.09 meters to point 4; thence S. 21° 57' E., 39.49 meters to point 5; thence S. 21° 33' E., 59.92 meters to point 1, point of beginning, containing an area of 3,688 square meters, more or less.

*Transfer Certificate of Title No. 475*

A parcel of land (lot No. 6, plan Psu-99235) with the improvements thereon, situated in the sitio of Maybalong, barrio of Esperanza, municipality of Alfonso (now City of Tagaytay). Bounded on the NE., by lot No. 5; on the SE., by property of Tagaytay Company; on the SW., by lot No. 7; and on the NW., by lot No. 31. Beginning at a point marked 1 on plan being S. 6° 58' W., 5,024.89 meters from B.L.L.M. No. 2, Mendez-Nuñez. Thence S. 21° 57' E., 13.45 meters to point 3; thence S. 68° 08' W., 39.09 meters to point 4; thence N. 21° 22' W., 14.32 meters to the point of beginning; containing an area of 542 square meters, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 13th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 78

EXCLUDING FROM THE OPERATION OF PROCLAMATION NUMBERED FOUR HUNDRED AND THIRTY-FIVE, DATED DECEMBER TWENTY-THREE, NINETEEN HUNDRED AND FIFTY-THREE, A CERTAIN PARCEL OF LAND EMBRACED THEREIN SITUATED IN THE DISTRICT OF ERMITA, CITY OF MANILA, AND RESERVING THE SAME FOR BUILDING SITE PURPOSES OF THE GOVERNMENT SERVICE INSURANCE SYSTEM

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the authority vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby exclude from the operation of Proclamation No. 435, dated December 23, 1953, a certain

parcel of land embraced therein situated in the District of Ermita, City of Manila, and reserve the same for building site purposes of the Government Service Insurance System, subject to private rights, if any there be, which parcel of land is more particularly described, to wit:

*Lot 3-B-1, Psd-27859*

A parcel of land (lot No. 3-B-1 of the subdivision plan Psd-27859, being a portion of lot No. 3-B described on plan Psd-27342, G.L.R.O. Cadastral Record No. ———), situated in the District of Ermita, City of Manila. Bounded on the N., by lot No. 3-B-2 of the subdivision plan; on the E., by lot 4-B of plan Psd-27342; on the S., by Calle Concepcion; and on the W., by Calle Arroceros. Beginning at a point marked 1 on plan, being N. 18° 44' W., 923.92 meters from B.L.L.M. No. 47, Manila Cadastre No. 13, thence N. 44° 26' W., 10.03 meters to point 2; thence N. 1° 37' W., 71.17 meters to point 3; thence S. 89° 42' E., 137.89 meters to point 4; thence S. 2° 21' E., 78.52 meters to point 5; thence N. 89° 37' W., 132.08 meters to the point of beginning; containing an area of 10,818.10 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: Point 3 by P. L. S. cylindrical concrete monument and the rest, by old G.I. spikes on wall; bearings true; declination variable; date of the original survey, August, 1919–March, 1920 and that of the subdivision survey, November 7, 1949.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 13th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 79

DECLARING THE PERIOD FROM NOVEMBER 21 TO  
27, 1954, AS PHILIPPINE NATIONAL SCIENCE  
WEEK AND CREATING A COMMITTEE TO TAKE  
CHARGE OF THE OBSERVANCE THEREOF

WHEREAS, the progress of the world greatly depends  
upon achievements in science;



WHEREAS, scientific education in the Philippines can be enhanced by the development of satisfactory media for the exchange of ideas concerning new methods and techniques;

WHEREAS, the Five-Year Economic Development Program of the Government will depend to a great extent upon contributions of science and scientists; and

WHEREAS, it is necessary to give impetus to scientific endeavors;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, do hereby declare the period from November 21 to 27, 1954, as Philippine National Science Week, to be observed throughout the country, particularly in schools, colleges and universities, with appropriate ceremonies.

The following are hereby designated members of a committee which is hereby created to take charge of the observance of Philippine National Science Week:

The Secretary of Agriculture and Natural Resources.....	Chairman
The Secretary of Health .....	Member
The Secretary of Education .....	Member
The Administrator of Economic Coordination .....	Member
The Chairman, National Research Council of the Philippines .....	Member
The Director of Science and Technology .....	Member
The President, Philippine Association for the Advancement of Science .....	Member

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 79-A

DECLARING WEDNESDAY, OCTOBER 20, 1954, AS A  
SPECIAL PUBLIC HOLIDAY IN THE PROVINCE  
OF LEYTE, INCLUDING ORMOC CITY

WHEREAS, the twentieth day of October is of special significance to the people of Leyte, being the anniversary of the landing on the shores of said province of the United States Armed Forces in their mission to liberate the country from enemy occupation;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by section 30 of the Revised Administrative Code, do hereby declare Wednesday, October 20, 1954, as a special public holiday in the province of Leyte, including Ormoc City.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 20th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 80

FIXING THE DATE OF THE EXEMPTION OF WHEAT  
FLOUR FROM THE SPECIAL EXCISE TAX ON  
FOREIGN EXCHANGE

WHEREAS, the imposition of the 17 percent special excise tax on foreign exchange on imported wheat flour tends to increase the price of bread and other essential commodities made from wheat flour; and

WHEREAS, the interests of the national economy and the general welfare require that wheat flour be procured at the lowest possible price so as to place bread and other essential articles derived from wheat flour within the reach of the masses;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by section 2 of Republic Act No. 1197, do hereby proclaim that effective upon the signing and promulgation of this proclamation, wheat flour shall be exempted from the payment of the 17 percent special excise tax on foreign exchange.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 21st day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 81

DECLARING MONDAY, NOVEMBER 15, 1954, AS A  
SPECIAL PUBLIC HOLIDAY IN THE PROVINCE  
OF OCCIDENTAL MINDORO

WHEREAS, the fourth anniversary of the creation of the province of Occidental Mindoro will fall on November 15, 1954; and

WHEREAS, the people of said province desire to celebrate the occasion with appropriate ceremonies;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by section 30 of the Revised Administrative Code, do hereby declare Monday, November 15, 1954, as a special public holiday in the province of Occidental Mindoro.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 23rd day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

## MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

## PROCLAMATION No. 82

## RESERVING FOR MARKET SITE PURPOSES CERTAIN PARCELS OF THE PUBLIC DOMAIN SITUATED IN CAVITE CITY

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of section 83 of Commonwealth Act No. 141, as amended, I, Ramon Magsaysay, President of the Philippines, hereby withdraw from sale or settlement and reserve for market site purposes under the administration of the City of Cavite, subject to private rights, if any there be, certain parcels of the public domain situated in the City of Cavite and more particularly described, to wit:

*Lot No. 1, Psu-143099—(City of Cavite)*

A parcel of land (lot No. 1 of plan Psu-143099), situated in the Districts of San Roque and Caridad, City of Cavite. Bounded on the N., by lots Nos. 1066 (City of Cavite, Market Site), of Cavite Cadastre, Calle Hermana del Trabajo, lots Nos. 753 (Regino Bautista), 752 (Regino Fernandez), 1231, 700 (Eleuteria Peralta) and 699 (Presentacion Herrera) of Cavite Cadastre, lot No. 696-B of plan Psd-33390 (Maria Palmero), and lot No. 694 (Lucia Sasis) of Cavite Cadastre, Calle General Luna, lots Nos. 693 (Aurea Ortega), 692 (Jose de la Rosa), 691 (Paulina Ballesteros), 690 (Brigida Garcia) and 689 of Cavite Cadastre, Callejon, lots Nos. 688 (Silveria Mariano) and 684 (Dominador Rosell) of Cavite Cadastre, Calle Basa, lots Nos. 683 and 1225 (Bernardo Rojas) of Cavite Cadastre, Calle Gorilla and lots Nos. 548 and 531 (Dominga Sipriaso) of Cavite Cadastre; on the SE., by Bacoar Bay; and on the NW., by lots Nos. 1, 2, 3, 4, 5, 6 and 7, block 70 of Caridad Estate, Calle Romualdo, lots Nos. 5, 4 and 6, block 57 of Caridad Estate, Callejon, lots Nos. 5 and 6, block 68 of Caridad Estate, Calle Molina, lots Nos. 9 and 6, block 69 of Caridad Estate, Calle Rivero, lot No. 2 of plan Psu-143099 and lot No. 1066 (City of Cavite Market Site) of Cavite Cadastre. Beginning at a point marked "1" on plan, being S. 12° 00' N., 289.68 meters from B.L.L.M. No. 3, Caridad Extension Cadastre No. 11, thence S. 21° 13' E., 18.51 meters to point No. 2; thence N. 65° 56' E., 42.58 meters to point No. 3; thence N. 22° 18' W., 33.19 meters to point No. 4; thence N. 47° 03' E., 27.91 meters to point No. 5; thence N. 69° 07' E., 50.08 meters to point No. 6; thence N. 64° 24' E., 3.96 meters to point No. 7; thence N. 81° 35' E., 14.00 meters to point No. 8; thence S. 2° 51' E., 1.81 meters to point No. 9; thence N. 78° 49' E., 16.82 meters to point No. 10; thence N. 84° 22' E., 12.74 meters to point No. 11; thence S. 6° 03' E., 17.65 meters to point No. 12; thence N. 83° 45' E., 13.52 meters to point No. 13; thence N. 84° 06' E., 14.68 meters to point No. 14; thence N. 6° 58' W., 3.54 meters to point No.

15; thence N. 89° 19' E., 14.13 meters to point No. 16; thence S. 9° 30' E., 6.12 meters to point No. 17; thence N. 86° 44' E., 12.26 meters to point No. 18; thence S. 49° 30' E., 5.40 meters to point No. 19; thence N. 88° 24' E., 7.54 meters to point No. 20; thence N. 4° 39' W., 3.61 meters to point No. 21; thence N. 86° 34' E., 8.69 meters to point No. 22; thence S. 81° 40' E., 11.11 meters to point No. 23; thence S. 83° 45' E., 14.71 meters to point No. 24; thence S. 80° 21' E., 13.71 meters to point No. 25; thence S. 74° 37' E., 3.92 meters to point No. 26; thence S. 84° 18' E., 15.72 meters to point No. 27; thence S. 3° 33' W., 3.88 meters to point No. 28; thence S. 84° 33' E., 14.62 meters to point No. 29; thence N. 29° 02' E., 7.66 meters to point No. 30; thence S. 88° 36' E., 16.30 meters to point No. 31; thence S. 85° 42' E., 14.39 meters to point No. 32; thence S. 23° 08' E., 12.04 meters to point No. 33; thence S. 82° 19' E., 12.48 meters to point No. 34; thence S. 80° 31' E., 19.49 meters to point No. 35; thence S. 63° 14' W., 450.01 meters to point No. 36; thence S. 63° 13' W., 127.20 meters to point No. 37; thence N. 33° 25' E., 18.81 meters to point No. 38; thence N. 33° 25' E., 12.00 meters to point No. 39; thence N. 33° 25' E., 13.00 meters to point No. 40; thence N. 33° 25' E., 13.50 meters to point No. 41; thence 33° 25' E., 13.00 meters to point No. 42; thence N. 33° 25' E., 7.58 meters to point No. 43; thence N. 43° 16' E., 15.00 meters to point No. 44; thence N. 43° 16' E., 12.00 meters to point No. 45; thence N. 11° 51' E., 13.18 meters to point No. 46; thence N. 32° 28' E., 30.01 meters to point No. 47; thence 32° 28' E., 10.60 meters to point No. 48; thence N. 32° 26' E., 10.50 meters to point No. 49; thence N. 32° 15' E., 2.98 meters to point No. 50; thence N. 32° 27' E., 18.00 meters to point No. 51; thence N. 32° 27' E., 14.64 meters to point No. 52; thence N. 32° 18' E., 10.65 meters to point No. 53; thence N. 32° 28' E., 23.01 meters to point No. 54; thence N. 32° 27' E., 21.41 meters to point No. 55; thence N. 43° 19' E., 11.52 meters to the point of beginning; containing an area of 50,340 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: points Nos. 1, 2, 3 and 4 by old P. L. S. cylindrical concrete monuments; points Nos. 35 and 37 by P. L. S. concrete monuments; point 36 by G. I. pipe 2 inches diameter by 2 meters long; and the rest, by old corners; bearings true; declination 0° 50' E., date of survey, July 18, 1954.

*Lot No. 2, Psu-143099—(City of Cavite)*

A parcel of land (lot No. 2 of plan Psu-143099), situated in the Districts of San Roque and Caridad, City of Cavite. Bounded on the NE., SE., and SW., by lot No. 1 of plan Psu-143099; and on the NW., by lot No. 1, block 216 of Caridad Estate (Lorenza Luyog Ing). Beginning at a point marked 1 on plan, being S. 12° 00' W., 289.68 meters from B.L.L.M. No. 3, Caridad Extension cadastre No. 11, thence N. 46° 57' E., 45.14 meters to point No. 2; thence S. 22° 18' E., 33.19 meters to point No. 3; thence S. 65° 56' W., 42.58 meters to point No. 4; thence N. 21° 13' W., 18.51 meters to the point of beginning; containing an area of 1,094 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground by old P. L. S. cylindrical concrete monuments; bearings true; declination 0° 50' E., date of survey, July 16, 1954.

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.



Done in the City of Manila, this 23rd day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 83

EXCLUDING FROM THE OPERATION OF PROCLAMATIONS NOS. 763 AND 516, DATED JANUARY 16, 1935, AND MARCH 1, 1940, RESPECTIVELY, CERTAIN PORTIONS OF THE LAND EMBRACED THEREIN, SITUATED IN THE BARRIO OF CALAMAGUI, MUNICIPALITY OF ILAGAN, PROVINCE OF ISABELA, ISLAND OF LUZON, AND RESERVING THE SAME FOR SCHOOL SITE PURPOSES OF THE ISABELA TRADE SCHOOL

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provision of section 83 of Commonwealth Act No. 141, as amended, I hereby exclude from the operation of Proclamations Nos. 763 and 516, dated January 16, 1935, and March 1, 1940, respectively, certain portions of the land embraced therein, situated in the Barrio of Calamagui, Municipality of Ilagan, Province of Isabela, Island of Luzon, and reserve the same for school site purposes of the Isabela Trade School under the administration of the Director of Public Schools, subject to private rights, if any there be, which portions of land are more particularly described as follows:

"A parcel of land (lot 1 of the consolidation and subdivision plan Bcs-2045, being a portion of the consolidation of lots 2, 3, 4 and 6 described on plan Ts-205, G.L.R.O. No.—), situated in the barrio of Calamagui, municipality of Ilagan, Province of Isabela. Bounded on the NE., by lots 4, 5 and 3 of the consolidation and subdivision plan; on the SE., by lots 3 and 2 of the consolidation and subdivision plan; on the S., by National road; on the SW. by lot 2 of the consolidation and subdivision plan and National road; and on the W. and NW., by National Highway. Beginning at a point marked 1 on plan, being S. 76° 07' W., 812.25 meters from B.L.B.M. 1, Barrio of Guinatan, Mu-

nicipality of Ilagan, Isabela, then S. 23° 42' W., 45.14 meters to point 2; thence S. 23° 43' W., 174.71 meters to point 3; thence S. 55° 22' W., 19.29 meters to point 4; thence N. 59° 20' W., 18.02 meters to point 5; thence N. 49° 07' W., 20.97 meters to point 6; thence N. 71° 22' W., 49.00 meters to point 7; thence S. 84° 39' W., 117.40 meters to point 8; thence N. 50° 56' W., 64.84 meters to point 9; thence N. 4° 53' E., 87.74 meters to point 10; thence N. 24° 11' E., 32.52 meters to point 11; thence N. 43° 19' E., 101.62 meters to point 12; thence N. 36° 47' E., 89.34 meters to point 13; thence S. 59° 56' E., 177.11 meters to point 14; thence S. 59° 56' E., 10.14 meters to point 15; thence S. 59° 56' E., 49.95 meters to the point of beginning; containing an area of 72,202 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: points 1, 2, 3, 4, 5, 13, 14 and 15, by B. L. cylindrical concrete monuments; and the rest, by old corners; bearings true; declination 0° 12' E.; date of the consolidation and subdivision survey, May 24-27, 1954."

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 23rd day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

#### MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 64

### ORGANIZING THE ASIAN GOOD NEIGHBOR RELATIONS COMMISSION, AND DESIGNATING THE MEMBERS THEREOF

Pursuant to the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby constitute and appoint the members of the Asian Good Neighbor Relations Commission, created under Executive Order No. 70 of September 27, 1954, as follows:

- |                                    |                         |
|------------------------------------|-------------------------|
| 1. Dr. Mariano de los Santos ..... | Chairman                |
| 2. Mr. Modesto Farolan .....       | Executive Vice-Chairman |
| 3. Professor Nicholas Zafra .....  | Member                  |
| 4. Mr. Joaquin Rocas .....         | Member                  |

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5. Mr. Eugenio Puyat .....	Member
6. Hon. Felino Neri .....	Member
7. Miss Helen Z. Benitez .....	Member
8. Mrs. Tarhata Kiram Salvador .....	Member
9. Mr. Claudio Tee Han Kee .....	Member

The Commission is authorized to appoint committees, subcommittees and its own secretary and also to call on any department, bureau, offices or agency or instrumentality of the Government as well as on the public in general for such assistance and cooperation as it may need in the discharge of its duties.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 65

CREATING A COMMITTEE TO COORDINATE THE  
STUDY, INVESTIGATION AND SURVEY OF ALL  
MULTI-PURPOSE PROJECTS FOR ELECTRIC-  
POWER GENERATION, FLOOD CONTROL, IRRI-  
GATION AND WATER SUPPLY

By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby create a Committee composed of the following:

The Executive Director, National Economic Council .....	Chairman
A representative of the Director of Public Works..	Member
A representative of the National Power Corporation .....	Member

The Committee shall be under the National Economic Council. It shall coordinate the study, investigation and survey that may be undertaken by the National Power Corporation, the Bureau of Public Works, and other government offices or agencies in connection with the planning of any multi-purpose development project involving electric-power generation, flood control, irrigation and water

supply. The Committee shall submit its report to the Chairman of the National Economic Council.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 66

REPRIMANDING MR. EUGENIO MAGHIRANG AS  
CHIEF OF THE FIRE DEPARTMENT OF THE  
CITY OF SAN PABLO

This is an administrative case against Mr. Eugenio Maghirang, chief of the Fire Department of the City of San Pablo, who is charged by some of his subordinates with (a) inefficiency and incompetence (lack of basic knowledge of the science of firefighting); (b) conduct unbecoming a public officer (habitual drunkenness and uttering slanderous remarks against a fireman); (c) neglect of duty (absence from various scenes of conflagration); (d) oppression (assault upon a fireman); and (e) abuse of authority (ordering a fireman to cook in the house of a friend during a fiesta of San Pablo City).

The charges were looked into by a special investigator who found most of them not substantiated. The investigator observed that the respondent is an exacting executive and a strict disciplinarian, which might explain his subalterns' animosity toward him.

In going over the record of the case I found clear and convincing evidence that the respondent is a habitual drunkard, that in moments of intoxication he had uttered gratuitous and unkind remarks against his subordinates, and that on one occasion while drunk he rang the fire alarm to summon an absent fireman, causing panic and confusion among the people in the neighborhood of the fire station. He is therefore guilty of conduct unbecoming a public officer sufficiently serious to warrant the taking of drastic action against him. However, considering his approximately

thirty-eight (38) years of service in the Government in various capacities and his advanced age of sixty-four (64), just one year short of the compulsory retirement age, I am inclined to view his case with some measure of leniency in the hope that he may yet redeem himself during the closing chapter of his government career.

All the other charges are hereby dismissed for insufficiency of evidence and lack of merit.

Wherefore, Mr. Eugenio Maghirang is hereby strongly reprimanded, with a warning that repetition of similar acts will be dealt with more severely.

Done in the City of Manila, this 27th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 67

CREATING AN AGRICULTURAL TENANCY  
COMMISSION

WHEREAS, the enactment of the Agricultural Tenancy Act is an important milestone in the struggle for an improved landholder-tenant relationship founded on fairness, justice and equity;

WHEREAS, the policy and purpose of the aforementioned law can be accomplished only by its full and proper implementation which is primarily the mutual duty of the Secretary of Justice and the Secretary of Agriculture and Natural Resources;

WHEREAS, the powers and duties of the two Secretaries under said Act are closely related to each other; and

WHEREAS, the coordination of the activities and functions of the two Secretaries will not only result in a uniform national enforcement policy but will also effect economy and efficiency;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law,



do hereby create an Agricultural Tenancy Commission to be composed of a Chairman and two Commissioners who shall all be designated by the Secretary of Justice and the Secretary of Agriculture and Natural Resources in consultation with each other.

The Commission shall be under the administrative supervision of the Secretary of Agriculture and Natural Resources.

The Commission shall advise the two Secretaries on all matters relating to the implementation of the Agricultural Tenancy Law and, when so authorized, shall act for and on behalf of either or both Secretaries. In each case, the Commission shall be subject to the control and direction of the Secretary whose functions are exercised.

The Commission shall be divided into a mediation division, a technical division and an information division.

The Chairman of the Commission shall be the chief of the mediation division.

One Commissioner shall be the chief of the technical division.

One Commissioner shall be the chief of the information division.

The Commission is empowered to request the detail of such trained and qualified personnel from the Department of Justice and the Department of Agriculture and Natural Resources and the cooperation and help of other Departments, branches and agencies of the National Government as it may deem necessary for the proper and efficient operation of the Commission.

The two Secretaries are hereby authorized to create as many positions in their respective departments as may be necessary for designation in the Commission. For this purpose there is hereby authorized to be disbursed from the Contingent Fund of the President of the Philippines, under Item Y-(IV)-1, page 1017, of Republic Act No. 1150, an amount not exceeding one hundred fifty thousand pesos or so much thereof as may be necessary for sundries, salaries of personnel mentioned in the next preceding paragraph and other expenses necessary for the operation of the Commission.

Done in the City of Manila, this 30th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY  
*President of the Philippines*

By the President:

FRED RUIZ CASTRO  
*Executive Secretary*

## MALACANANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 68

SUSPENDING MR. ANTONIO G. ISIP FROM OFFICE  
AS ASSISTANT FISCAL OF MANILA

This is an administrative case against Mr. Antonio G. Isip, assistant fiscal of Manila, who is charged with (1) prejudicial negligence, (2) discourtesy, (3) lack of interest in the performance of official duty and (4) partiality. After going over the record, I am satisfied that the last charge has not been sufficiently established.

Regarding the first charge, it appears that on January 18, 1954, at 2 p.m., Adriano D. Merida and his wife, Carmen Candaza, the accused in I. S. No. 336, for grave slander, filed by Ester Landicho, appeared before Fiscal Isip in obedience to a subpoena issued by the latter, dated January 11, 1954, requiring their appearance that afternoon. After the couple had waited for more than half an hour and the complainant had not shown up, the respondent fiscal told them to go home, assuring them that he would drop the case for non-appearance of the complainant. However, at 11 a.m. the following day, January 19, 1954, Carmen Candaza was arrested by virtue of a warrant of arrest issued in Criminal Case No. 25272, for grave slander filed against her by the respondent fiscal before the Court of First Instance of Manila on January 13, 1954, which was the very case he promised to drop the previous day. Unable to file a bond, Carmen Candaza was detained in jail where she stayed up to the morning of January 21, 1954, with her six-month-old child who was ill.

The above facts are not disputed by the respondent. In fact he admits having promised to drop the case against Carmen Candaza in the erroneous belief that it had not yet been filed in court. He explains, however, that a mistake was made by his stenographer, Mariano Andrada, as the one he (respondent) intended to summon was the complainant for the latter to sign the complaint, and that he was confused because he did not make a record of the status of the case, attributing his oversight to pressure of work.

Respondent's explanation is not satisfactory. He could not have intended to summon the complainant to sign her

complaint because she already signed and swore to it on January 11, 1954, which enabled him to file the complaint on January 13, 1954. Had he been attentive to his work, he could have discovered the alleged mistake of his stenographer because it is hard to believe that he did not know that the complainant signed and swore to her complaint on January 11, 1954, the very day the subpoena to Carmen Candaza was also prepared.

While no malicious motive on the part of the respondent has been shown, I am convinced that he was negligent in the performance of his duty, resulting in the detention of Carmen Candaza in jail which she had not in the least anticipated in view of his previous assurances that the case would be dropped.

As to the second and third charges, which are inter-related, Dr. Vicente Siojo alleges that he was the complainant in a case for trespass against one Romeo Marfil which was assigned to Fiscal Isip; that on two occasions he approached the fiscal for the purpose of acquainting him with the facts of the case but respondent paid no attention to him; and that during the trial of the case in Branch III of the Municipal Court of Manila the respondent was so indifferent to the prosecution of the case that Judge Francisco Geronimo asked him: "Why didn't you confer with your witness before entering the trial?" The judge even told the complainant that he should have hired a private prosecutor.

Denying the charge of indifference to duty, the respondent explains that the case was dismissed because the complainant admitted at the trial that he had given permission to the accused to go to his (complainant's) house; that he really met Dr. Siojo in the yard of the court, but apparently the doctor wanted indirectly to be given some pointers as to what he would say in court, so he tried his best in a diplomatic way to avoid the doctor; and that this was probably the reason why Dr. Siojo complained against him.

The explanation of the respondent is partly an admission of the charges of indifference and discourtesy. How can he ever handle his cases efficiently if he avoids meeting even the complainants? And how could he say that Dr. Siojo wanted indirectly to be coached in his testimony when the doctor had not yet informed him what he wanted? Moreover, the respondent, beyond making a general denial of the charge of indifference to public duty, has not squarely denied or explained the alleged uncomplementary remarks of the trial judge.

It may be well for the respondent to know that there is more than the legal aspect involved in a criminal case.

The office of a fiscal is a public office and the incumbent thereof is a public servant. The public, especially the aggrieved parties and their witnesses, has a right to expect attention from that office and the incumbent thereof. In this respect, the respondent has been wanting.

In view of the foregoing, I find the respondent guilty of prejudicial negligence and discourtesy. Upon the recommendation of the Secretary of Justice, he is hereby suspended from office for a period of one month without pay, effective upon receipt of notice hereof. He is further severely reprimanded and admonished to be more careful in the discharge of his duties as repetition of similar acts in the future will be dealt with more severely.

Done in the City of Manila, this 14th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

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MALACAÑANG

RESIDENCE OF THE PRESIDENT  
OF THE PHILIPPINES  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 69

REMOVING MR. BUENAVENTURA SABULAO FROM  
OFFICE AS JUSTICE OF THE PEACE OF KIDAPAWAN, COTABATO

This is an administrative case against Justice of the Peace Buenaventura Sabulao of Kidapawan, Cotabato, for fixing an excessive bond for the provisional release of one Marciano Sumagaysay who was prosecuted in his court.

It appears that on March 22, 1954, a complaint for malicious mischief was filed in respondent's court by Ugalingan Bayawan against Marciano Sumagaysay. According to the offended party, the value of the damage caused to his property was ₱1,211. The respondent gave due course to the complaint and fixed a bond of ₱6,000 for the temporary release of the accused, believing, according to him, that the penalty for the offense charged is that provided in article 328 of the Revised Penal Code, or

*prisión correccional* in its minimum and medium periods. However, the bond was subsequently reduced to P4,000 upon petition of the accused.

The bond fixed by the respondent was obviously excessive as the accused was prosecuted for ordinary malicious mischief under article 327 of the Revised Penal Code, which is penalized under article 329 of said code. Under this article, the penalty for the offense is *arresto mayor* in its medium and maximum periods inasmuch as the value of the alleged damage exceeds P1,000. Such being the case, the customary bond required of the accused should not have exceeded P600.

Respondent's explanation that, inasmuch as article 327 on which the prosecution was based does not provide any penalty, he thought that the penalty provided in article 328 could be applied, is unsatisfactory. Article 328 penalizes "special cases of malicious mischief", such as causing damage to obstruct the performance of public functions, or using any poisonous or corrosive substance, etc., whereas the offense charged in the case is ordinary malicious mischief which falls under Article 329 of the code.

In the study of this case I have observed certain circumstances tending to show that the respondent deliberately fixed an excessive bond against Sumagaysay. He is one of the attorneys for the petitioners in a certiorari case pending in the Court of First Instance, entitled "Ugalingan Ingkai et al. vs. Maura Valencia." The land involved in the case is the same land on which the alleged malicious mischief, for which Sumagaysay was prosecuted, had been committed; and Sumagaysay is the tenant of the heirs of Maura Valencia, respondent in the case for certiorari. It is evident, therefore, that the interests of respondent's clients conflict with those of Sumagaysay. This fact was admitted by the respondent when he asked the District Judge that he be allowed to inhibit himself from taking cognizance of the Sumagaysay case. Commenting on respondent's actuation, the District Judge said:

"... The actuation of respondent Justice of the Peace, in fixing the questionable bond aforesaid, is open to grave suspicion in view of the tangible interest that said Justice of the Peace has in the outcome of said cases, particularly that of Criminal Case No. 555, *People vs. Marciano Sumagaysay*. The judicial discretion exercised by said Justice of the Peace is abusive, calculated and intended to harass an opponent in Court."

The foregoing shows that the respondent has abused his office to harass a person having conflicting personal interest with him. In so doing he has broken faith with his oath of office to administer justice to every person, thereby rendering himself unfit to sit in judgment over his fellowmen. Such deplorable conduct on the part of public



officials, particularly those in the judiciary, has given occasion for people to lose faith in their government, and I am determined to restore such faith no matter what the cost.

Wherefore, Mr. Buenaventura Sabulao is hereby removed from office as justice of the peace of Kidapawan, Cotabato, effective upon receipt of notice hereof.

Done in the City of Manila, this 15th day of October, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY

*President of the Philippines*

By the President:

FRED RUIZ CASTRO

*Executive Secretary*

## REPUBLIC ACTS

Enacted during the Third Congress of the Philippines  
Special Session

H. No. 1439

[REPUBLIC ACT NO. 1190]

AN ACT TO PROVIDE FOR THE CIVIL DEFENSE IN TIME OF WAR OR OTHER NATIONAL EMERGENCY, CREATING A NATIONAL CIVIL DEFENSE ADMINISTRATION, AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. *National Civil Defense Administration.*—(a) There is hereby established under the Office of the President a National Civil Defense Administration (hereinafter in this Act referred to as the "Administration"). The Administration shall be composed of a National Civil Defense Administrator, a Deputy Administrator, an Executive Director, a military Liaison Officer from the Armed Forces of the Philippines, and such other subordinate officers and employees as may be detailed thereto by the President from other offices, agencies or branches of the Government or who may be appointed by the Administrator. The Administrator, Deputy Administrator and Executive Director shall be appointed from among persons not in the active military service who are not holding any office or employment in the Government or in any of its branches, agencies or instrumentalities.

(b) The National Civil Defense Administrator and the Deputy Administrator shall be appointed by the President with the consent of the Commission on Appointments, and they shall receive salary at the rate of twelve thousand pesos and nine thousand pesos a year, respectively. The Executive Director shall be appointed by the President upon the recommendation of the Administrator, and he shall receive salary at the rate of seven thousand two hundred pesos a year.

(c) It shall be the function of the Administration, under the direction and control of the Administrator, to—

(1) establish and administer a comprehensive national civil defense program;

(2) formulate and prepare at all times plans and policies for the protection and welfare of the civilian population in time of war directly involving the Philippines or other national emergency of equally grave character;

(3) estimate the total material, manpower and fiscal requirements for carrying out the national civil defense program, and allocate to the provinces and cities such aid in facilities, materials, and funds as may be made available from the National Government or as may be authorized by Congress;

(4) coordinate on the national level the activities and functions of the several executive departments, agencies and instrumentalities of the National Government, and of private institutions and civic organizations devoted to public or social welfare, so that the facilities and resources of the entire nation may be utilized to the maximum extent for civil defense purposes;

(5) develop and coordinate a program for informing, educating and training the general public and volunteer workers on civil defense measures and activities;

(6) furnish guidance to the various provinces, cities and municipalities in the planning, organization and operation of their civil defense organizations;

(7) advise the President on matters concerning civil defense, and make such recommendations from time to time as it deems appropriate or as the President may require.

(d) In the event of war directly involving the Philippines or other national emergency of equally grave character proclaimed by the President with the concurrence of two-thirds of the members of each House of Congress, the Administration shall, under the direction and control of the Administrator—

(1) execute plans and policies relating to civil defense as provided for in section four of this Act;

(2) coordinate and supervise the operations and activities of national, provincial, city and municipal civil defense organizations.

(e) In performing its functions, the Administration shall utilize to the maximum extent the existing personnel, facilities and resources of the several executive departments, agencies and instrumentalities of the National Government, except those needed by the Armed Forces of the Philippines for the national defense, as determined by the President;

(f) The President, upon recommendation of the Administrator, shall be and is hereby authorized to prescribe the detailed organization, functions and duties of the different offices and agencies of the Administration.

SEC. 2. *National Civil Defense Council.*—(a) There is hereby established a National Civil Defense Council (hereinafter in this Act referred to as the "Council") to be composed of the National Civil Defense Administrator, as chairman, the Chairmen of the Committees on National Defense and Security of both Houses of Congress, the Economic Coordinator, the Chief of the Philippine Constabulary, the Commissioner of Social Welfare, the Manager of the Philippine National Red Cross, the Manager of the National Development Company, the Manager of the Price Stabilization Corporation, and such other members as may be designated by the President from time to time.

(b) It shall be the function of the Council to consult with and advise the National Civil Defense Administrator on matters concerning civil defense, particularly with respect to the coordination of the functions and activities of the different organizations represented in the Council, with the civil defense program.

SEC. 3. *Local Civil Defense Organizations.*—(a) The organization, functions and responsibilities of provincial, city and municipal civil defense organizations shall conform to the following general policies and standards:

(1) The various tasks, functions and responsibilities of civil defense shall be assigned to appropriate existing offices, agencies, instrumentalities, officials and employees of the various provincial, city or municipal governments. Existing facilities and resources of these governments shall be utilized to the maximum in their respective civil defense organizations and activities.

(2) The financial costs of local civil defense within each province, city and municipality shall be borne by the provincial, city or municipal governments, concerned: *Provided*, That if the resources of the province, city or municipality concerned are not sufficient to bear said costs, the National Government shall provide the necessary subsidy.

(3) The provincial governor of each province shall be responsible for the direction, supervision and coordination of civil defense planning, operations and activities within his province, except in chartered cities. For this purpose, he shall be designated as the Provincial Civil Defense Director.

(4) The basic operating units for civil defense shall be the municipalities and cities. Each municipality and chartered city shall organize and maintain its own local civil defense organization, with the municipal or city mayor as the Municipal Civil Defense Director of his particular municipality or city.

(5) The Municipal Civil Defense Director, under the direction and supervision of the Provincial Civil Defense Director in the case of municipalities, shall be responsible for—

(A) establishing and administering the municipal or city civil defense organization;

(B) coordinating and directing the local civil defense operations and activities of public and private agencies or groups within the locality;

(C) formulating and negotiating mutual aid plans and agreements with neighboring municipalities and with the province in which it is located;

(D) directing the development of civil defense plans and programs in accordance with plans and policies established by national and provincial civil defense organizations.

(b) The Administrator shall, upon recommendation of the Council, prescribe such rules and regulations from time to time to public or private firms, associations, companies, corporations, institutions, establishments or organized groups of persons to the preparation of their own plans, and to organize their respective staffs, personnel and facilities, for civil defense. In the event of war directly involving the Philippines or other national emergency of equally grave character such entities or groups shall institute and maintain at all times guard systems, safety programs, warning systems, personnel shelters,

fire-fighting facilities and procedures, emergency medical facilities, blackout techniques and procedures, exit and entry control, and other protective measures for their respective establishments, personnel, inmates or patrons.

(c) Each Municipal Civil Defense Director shall organize groups of individuals and families living in one neighborhood within his municipality or city into Civil Defense Units. Each Civil Defense Unit shall be under a leader who shall be responsible for the organization and training of individual members in fire-fighting and first-aid techniques, guard duty, blackout control, and other phases of concerted self-protection relating to civil defense. The Municipal Civil Defense Director shall direct and coordinate the civil defense functions and activities of all Civil Defense Units within his municipality or city.

(d) In cities and towns of over 100,000 population, civil defense drills shall be held at least once every three months.

SEC. 4. *Civil Defense Operating Services.*—The Administrator shall be and is hereby authorized to prescribe the organization of, the functions, duties and responsibilities of national, provincial, city and municipal civil defense authorities in connection with the following operating services for civil defense, subject to the approval of the President: the Warden Service, Police Service, Fire Service, Health Service, Rescue and Engineering Service, Emergency Welfare Service, Transportation Service, Communication Service, Evacuation Service and Air-raid Warning Service, and the Auxiliary Service. Units of each of these civil defense operating services shall be established in the national, and in each provincial, city and municipal defense organization. Such units shall operate under the direction and supervision of the head of the civil defense organization to which they appertain.

SEC. 5. *Civil Defense Measures.*—(a) In time of war directly involving the Philippines or other national emergency of equally grave character proclaimed as above stated with the concurrence of two-thirds of the members of each House of Congress, the President shall be and is hereby authorized to promulgate rules and regulations in order to carry out the civil defense program as prepared and established by the National Civil Defense Administration.

(b) Any person, firm or corporation found guilty of any violation of the rules and regulations promulgated by the President under the authority of this section shall be punished by imprisonment of not more than ten years or by a fine of not more than ten thousand pesos, or by both such fine and imprisonment in the discretion of the court. If such violation is committed by a firm, association, or corporation, the managing head or heads thereof shall be criminally responsible therefor.

SEC. 6. The sum of five hundred thousand pesos is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to carry out the purposes of this Act. Not more than twenty per cent of this appropriation shall be expended for overhead and salaries. Appropriations for the operation of the Administration shall hereafter be included in the annual general appropriations for the Office of the President.

SEC. 7. No provision of this Act shall be interpreted as conferring upon the President or the National Civil

Defense Administration authority to exercise any of the powers exclusively vested in Congress by the Constitution.

SEC. 8. All laws and executive orders or portions thereof inconsistent with this Act are hereby repealed.

SEC. 9. This Act shall take effect upon its approval.

Approved, August 18, 1954.

S. No. 1

[REPUBLIC ACT No. 1191]

AN ACT TO DEMONETIZE TREASURY CERTIFICATES AND CENTRAL BANK NOTES OF OVER ONE HUNDRED-PESO DENOMINATIONS AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Any provision of law, rules and regulations to the contrary notwithstanding, the Central Bank of the Philippines is hereby ordered to demonetize Treasury certificates and Central Bank notes of the denominations of over one hundred pesos, and to replace them with certificates and bank notes of lower denominations.

SEC. 2. To carry out the purposes of this Act, the owners or holders of Treasury certificates and Central Bank notes, either individual persons, associations, corporations, or institutions, of the denominations of over one hundred pesos, are required to surrender them to the Central Bank of the Philippines within six months from the approval of this Act, and in exchange to receive from the Bank their equivalent amount in money in Treasury certificates or Central Bank notes of smaller denominations.

SEC. 3. The Central Bank, through its Monetary Board, shall promulgate the necessary rules and regulations to effect and facilitate the surrendering and replacing of said Treasury certificates and Central Bank notes to be demonetized under the provisions of this Act. There shall be no question asked from the owners or holders as to the origin of said treasury certificates and bank notes and as to whether taxes were collected on them or not in the preceding years. Said paper moneys shall, in cases where the owners or holders failed to include them in their corresponding tax returns, be included in their income tax returns and in other forms of taxes corresponding to the calendar year nineteen hundred and fifty-three without incurring any penalty.

SEC. 4. The Central Bank shall publish or cause to be published the serial numbers of the Treasury certificates and Central Bank notes that have been demonetized and surrendered under the provisions of this Act, and, likewise, it shall publish or cause to be published, the serial numbers of those which have not been surrendered or which must have been lost, as shall be known by the Central Bank from the treasury certificates and bank notes that have been surrendered and replaced.

SEC. 5. To all intents and purposes, the Treasury certificates and the Central Bank notes of the denominations of over one hundred pesos, demonetized under this Act, shall be considered as condemned by the Central Bank of the Philippines after six months from the approval of



this Act and no issuance of such denominations except in an emergency shall be made for at least one year from the date such denominations are considered condemned under the provisions of this section. Nothing in this Act, however, shall prevent the owners or holders of said treasury certificates and bank notes from using them in buying government bonds and securities and such industrial bonds and securities as shall be approved by the Securities and Exchange Commission or in depositing them in banks during said period of six months after the approval of this Act.

SEC. 6. This Act shall take effect upon its approval.

Approved, August 25, 1954.

H. No. 2060

[REPUBLIC ACT NO. 1192]

AN ACT TO CREATE THE BUREAU OF PUBLIC HIGHWAYS, ABOLISHING THE DIVISION OF HIGHWAYS OF THE BUREAU OF PUBLIC WORKS.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. *Creation and chief officials of the Bureau of Public Highways.*—There is created in the Department of Public Works and Communications an office to be known as the "Bureau of Public Highways," which shall have one chief to be designated as the Commissioner of Public Highways who shall be appointed by the President of the Philippines with the consent of the Commission on Appointments and shall receive an annual compensation of nine thousand six hundred pesos. He shall, upon appointment, take and file the oath prescribed by law for public officers, shall be bonded in accordance with the Public Bonding Law in the sum of twenty-five thousand pesos. and shall be subject to removal by the President for neglect of duty or for nonfeasance or malfeasance in office.

No person shall be appointed Commissioner of Public Highways unless he is a competent civil engineer, graduate of an engineering college duly recognized by the Government, with at least fifteen years experience in highway and bridge construction, maintenance and repair.

Any reference made in any act, executive order, administrative order, proclamation, rules or regulations to the Bureau of Public Works or to the Division of Highways of said Bureau in relation to construction, improvement, maintenance or repair of public roads, streets or highways or other activities connected therewith, shall hereafter be understood to be a reference to the Bureau of Public Highways herein created: *Provided*, That no additional administrative expenditures for the operation of the Bureau of Public Highways created under this Act shall be drawn from the general funds, such expenditures being proper charges against the allotments already set aside under section six, paragraph (a), of Republic Act Numbered Nine hundred and seventeen, known as the "Philippine Highway Act of 1953."

SEC. 2. *Powers, duties, functions and aims of the Bureau in general.*—The Bureau of Public Highways shall have the following powers, duties, functions and aims in general:

(a) The planning of a national highway program and the administration of large highway construction expenditures;

(b) The conducting of research and investigation studies, including studies of highway administration, legislation, finance, economics, transport, construction, operation, maintenance, utilization, and safety, and of street and highway traffic control; investigations and experiments in the best methods of road making, especially by the use of local materials; studies of types of mechanical plants and appliances used for road building and maintenance, and of methods of road repair and maintenance suited to the needs of different localities;

(c) The survey, construction, care, maintenance, improvement and repair of national roads, express highways through cities, main rural highways, and the establishment of a highway system connecting the principal metropolitan areas and important industrial centers, and a system of secondary or farm-to-market roads;

(d) The giving of advice to the President of the Philippines, the Congress, and the Secretary of Public Works and Communications upon matters pertaining to public highways;

(e) The making of needful preliminary investigations, plans and specifications for the construction or repair of national roads, the obtaining of bids for contract work, the acceptance or rejection of the same and the awarding of contracts therefor;

(f) The preparation of plans and estimates with reference to provincial and municipal roads, the letting of contracts therefor, and supervision over the construction, improvement, maintenance, and repair thereof;

(g) The supervision over the engineering features of streets throughout the Philippines, whether pertaining to the National Government or to any political subdivision thereof;

(h) To cooperate with the department or departments concerned in the construction of roads in national forests, national parks and other areas belonging to the National Government.

**SEC. 3. Powers and duties of the Commissioner.**—The Commissioner of Public Highways shall possess the powers conferred generally on bureau chiefs, shall have full control, management, supervision, administration, and direction of the Bureau, and shall be responsible for the carrying out of the activities thereof. In particular, he shall be directly responsible for: (1) the administration of Republic Act Numbered Nine hundred seventeen, otherwise known as the Philippine Highway Act of 1953; (2) preparation of long-range programs of highway development, improvement and construction; (3) formulation of uniform practices for the physical design of highway facilities; (4) direction of research in matters of highway planning, location, design, construction and maintenance, including the testing of materials and the proper and efficient use of highway equipment; (5) promotion of sane economy in the expenditure of highway funds, utilization of supplies and materials, preservation of property and equipment, and management

operations; (6) preparation of annual budgets of proposed expenditures for construction, reconstruction, and improvement work; (7) causing minutes of his acts to be kept; and (8) supervising the signing of vouchers, orders for supplies, materials, and any other expenditures.

The Commissioner shall not hold any other office, shall devote his entire time to the duties of his office, and shall not hold any position of trust or profit, nor engage in any business or occupation interfering or inconsistent with his duties, nor serve on or under any committee of any political party.

The Commissioner, or whosoever may be designated by him, may hold sessions or conduct investigations or hearings at his office or at any other place within the Philippines when deemed necessary to facilitate the work of his Bureau.

The Commissioner shall be custodian of, and shall preserve, the files and records of the Bureau, which, under reasonable regulations, shall be open to public inspection. Copies of said files and records, when certified by the Commissioner as being true copies, shall be received in evidence in any court in the Philippines with the same force and effect as the originals.

He shall cause the books of account of the Bureau to be kept accurately and completely, showing, among other things, the following facts:

(a) The cost of maintaining the Bureau, including the salaries and expenses of the individual officers and employees thereof;

(b) The amounts of money expended for the construction or maintenance of public highways, when and where, and upon what job or portion of the road expended, so that the cost per kilometer of such construction or maintenance can be ascertained with ease; and

(c) The amount of road equipment and materials purchased, and when and where and from whom purchased. Such books also shall show the price paid for each item. The original invoice shall form a part of the permanent files and records in the Bureau of Public Highways.

Any reference made in any act, executive order, administrative order, proclamation, rules or regulations to the Director of Public Works in relation to construction, improvement, maintenance or repair of public roads, streets or highways or other activities connected therewith, shall hereafter be understood to be a reference to the Commissioner of Public Highways.

SEC. 4. *Duties of the Chief Highway Engineer.*—The Chief Highway Engineer, aside from duties assigned to his office under section five hereof, shall assist the Commissioner in carrying out the activities of the Bureau. In particular, he shall be directly responsible for: (1) coordinating the various phases of planning, location, design, construction and maintenance of public highways; (2) coordinating matters of line and grade with the services on design of bridges and railroad crossings; (3) coordinating matters of research and specifications with other highway services; (4) checking and passing on final awards of contracts; and (5) reviewing and passing on highway budgets prepared by the corresponding division or service.

In the event of the sickness, absence or other temporary incapacity of the Commissioner, or if the office of Commissioner is vacant, the powers and duties of the Commissioner shall be exercised and performed by the Chief Highway Engineer.

SEC. 5. *Organization.*—Until properly determined by the Government Survey and Reorganization Commission created under Republic Act Numbered Nine hundred ninety-seven, the present organization and personnel of the Division of Highways in the Bureau of Public Works shall continue to function under the Bureau of Public Highways created by this Act, exercising the same powers and duties as are already assigned to the different offices of the said division under Republic Act Numbered Nine hundred seventeen.

The different specialized services under the said Division of Highways shall be constituted regularly organized divisions. The Chief Highway Engineer shall perform the duties inherent to his position as prescribed in Republic Act Numbered Nine hundred seventeen and those provided under this Act, and he shall receive a salary of seven thousand eight hundred pesos *per annum*. The incumbent field Division and District Engineers shall become the Highway Division and Highway District Engineers, respectively, who shall serve as ex-officio Public Works Division and District Engineers, until the appointment of regular Division and District Engineers of the Bureau of Public Works is authorized by law.

SEC. 6. *Authority of officials to administer oaths and take testimony.*—The Commissioner of Public Highways, the Chief Highway Engineer, and the Chiefs of Divisions in the Bureau of Public Highways, and the Heads of the Highway Engineering Divisions, Highway Engineering Districts and City Highway Engineering Offices, shall have authority to administer oaths in the transaction of official business. The same officials or other officer or employee of the Bureau thereunto especially deputed by the Commissioner shall have further authority to take testimony in any matter within the jurisdiction of the Bureau.

SEC. 7. *Medical supplies and attendance for employees of the Bureau.*—When officers and employees of the Bureau of Public Highways are engaged on authorized highway construction, reconstruction, improvement, repair or maintenance at places where usual medical attendance is not accessible, the Commissioner of Public Highways may, with the approval of the Department Head, request the Secretary of Health to assign such physicians in the Government service as in his judgment may be necessary for the best interest of the service.

SEC. 8. *Abolition of the Division of Highways of the Bureau of Public Works.*—The Division of Highways of the Bureau of Public Works, as reorganized pursuant to the provisions of the Philippine Highway Act of 1953, is abolished, and its personnel, unexpended appropriations, records, supplies, materials, equipment and other properties are transferred to the Bureau of Public Highways herein created. The powers, duties and functions heretofore exercised and performed by the said Division shall hereafter

be exercised and performed by the Bureau of Public Highways in so far as they are not inconsistent with this Act and the regulations issued thereunder.

SEC. 9. *Regulations.*—The Secretary of Public Works and Communications shall issue such rules and regulations as may be necessary to carry out the purposes of this Act.

SEC. 10. *Laws repealed or amended.*—All acts, executive orders, administrative orders, proclamations, rules and regulations, or parts thereof, inconsistent with this Act are repealed or amended accordingly.

SEC. 11. *Date of effectivity.*—This Act shall take effect on the first day of July, nineteen hundred fifty-four.

Approved, August 25, 1954.

H. No. 2512

[REPUBLIC ACT No. 1193]

AN ACT ALLOWING THE EXPENDITURE DURING THE PERIOD FROM JANUARY FIRST TO JUNE THIRTY, NINETEEN HUNDRED AND FIFTY-FOUR, OF THE INCOME ACCRUING TO THE GENERAL, SPECIAL, TRUST AND OTHER FUNDS IN THE PHILIPPINE TREASURY DURING THE SAME PERIOD, AND FOR OTHER PURPOSES.

WHEREAS, according to figures compiled by the Budget Commission on May 31, 1954, the past administration incurred a deficit in the amount of ₱62,497,289.24 during the period from July 1 to December 31, 1953;

WHEREAS, under the provisions of Section 9 of Republic Act No. 906, a quarterly allotment system has been established for the purpose of keeping expenditures within the income so as to prevent incurrence of deficits;

WHEREAS, to apply, in accordance with the allotment system, the income collected by the present administration during the months of January and February 1954 to cover the said deficit incurred by the past administration would have resulted in the paralization of the essential activities of the government for about two months, thereby creating a serious national emergency;

WHEREAS, it is clearly in the public interest that the said deficit of ₱62,497,289.24 incurred during the period from July 1 to December 31, 1953 should be blocked and the use of the collections made by the present administration during the period from January 1 to June 30, 1954 to cover expenditures in pursuance of appropriations previously authorized by law be allowed, instead of applying a portion of said collections to first wipe out the afore-said deficit;

WHEREAS, the present administration took cognizance of this financial problem and accordingly presented during the last regular session of this Congress a bill providing appropriate remedy to meet the situation: *Now, therefore,*

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. The expenditure during the period from January first to June thirty, nineteen hundred and fifty-four, in pursuance of appropriations made by law prior to the approval of this Act, of the income accruing to the general, special, trust and other funds in the Philippine

Treasury during the said period is hereby authorized: *Provided, however,* That the expenditures from special and trust funds during the same period shall have been made solely for the purposes for which said special and trust funds were created.

SEC. 2. This Act shall take effect as of January first nineteen hundred and fifty-four.

Approved, August 25, 1954.

H. No. 2165

[REPUBLIC ACT NO. 1194]

AN ACT TO AMEND REPUBLIC ACT NUMBERED SIX HUNDRED NINETY-EIGHT, ENTITLED "AN ACT TO LIMIT THE IMPORTATION OF FOREIGN LEAF TOBACCO."

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Section one of Republic Act Numbered Six hundred ninety-eight is amended to read as follows:

"SECTION 1. The importation of foreign leaf tobacco shall be limited as follows:

"For 1954—forty per cent of the total importation in 1950.

"For 1955—twenty-five per cent of the total importation in 1950.

"For 1956 and succeeding years, importation shall be subject to the following provisions:

"After the harvest of tobacco every year, and after the reports of every town recorded in the Bureau of Plant Industry as growing Virginia leaf tobacco, through their respective councils, have been received by the ACCFA, and after all Virginia leaf tobacco for sale in their respective areas shall have been bought by the ACCFA or any Government agency or any buyer not later than August one, the ACCFA shall report to the President whether or not the indigenous production of Virginia-type leaf tobacco in the Philippines is insufficient to maintain the manufacture in the country of tobacco products in any year at a level sufficient to produce not less than the quantity of tobacco products manufactured in the preceding fiscal year as certified by the Bureau of Internal Revenue. The President of the Philippines upon receipt of such report that the local production is insufficient may authorize the importation of Virginia-type leaf tobacco necessary to maintain such level of production: *Provided,* That the foregoing provision shall be applicable to the fiscal years of nineteen hundred fifty-four and nineteen hundred fifty-five to meet deficiencies of supply, if any: *Provided, further,* That nothing herein shall be construed to limit the importation of wrapper leaf tobacco for cigars or chewing tobacco, nor to permit the importation of processed tobacco as defined in section 1-b hereof except Turkish tobacco."

SEC. 2. There are hereby inserted between sections one and two of the same Republic Act Numbered Six hundred ninety-eight the following new sections:

"SEC. 1-a. Virginia-type leaf tobacco authorized to be imported under this Act shall be allocated and distributed



by the Monetary Board of the Central Bank among legitimate manufacturers of Virginia-type cigarettes on the basis of the production of each factory as reflected in its payment of specific taxes for Virginia-leaf cigarettes for the twelve-month period immediately preceding the month for which allocation is to be granted, taking also into consideration the stock inventory of each factory at the close of the calendar month preceding the allocation: *Provided*, That no manufacturer of Virginia-type cigarettes shall be entitled to the allocation provided for herein unless he presents a certificate showing that he has purchased locally produced Virginia-type leaf tobacco as provided in section 1-c hereof.

"Licenses for such importation shall be issued within fifteen days after the allocation made by the Central Bank as above provided, and the corresponding foreign exchange authorized by the Monetary Board of the Central Bank to the extent of the foreign exchange disposable by the Central Bank.

"The Government entity authorized to allocate and distribute the import licenses for Virginia leaf tobacco shall not grant any such licenses to any factory or manufacturer using imported tobacco that has on the record any violation of the Import Control Laws and Republic Act Numbered Six hundred ninety-eight limiting the importation of said tobacco, or any case of tax evasion.

"SEC. 1-b. By processed tobacco is meant leaf tobacco which is either blended, cased, flavored, ready cut, or cut fillers ready for manufacturing purposes, and shall not include tobacco leaf only the stem of which is removed. By Virginia-type leaf tobacco, as used in section 1-a, is meant any kind of tobacco, leaf or scrap, for the manufacture of cigarettes.

"SEC. 1-c. All locally grown and produced Virginia-type leaf tobacco shall be purchased by the Government through the ACCFA, any provision of law to the contrary notwithstanding, for resale to the manufacturers of Virginia-type cigarettes at cost. The Central Bank, through the Rehabilitation Finance Corporation, shall grant the ACCFA the necessary loans with which to effect the purchase of said tobacco, and to cover the expenses in connection with the handling and warehousing thereof. Nothing in this provision shall be construed to prohibit manufacturers of Virginia-type cigarettes or other dealers to buy Virginia-type tobacco from the farmers, cooperatives or any private dealers.

"The prices at which said locally grown and produced Virginia-type leaf tobacco may be purchased shall not be less than those fixed in the following schedule:

"For flue-cured Virginia leaf tobacco:

	<i>Per Kilo</i>
a. Bright yellow leaf .....	₱3.60
b. Dull yellow leaf .....	3.00
c. Spotted yellow leaf .....	2.50
d. Greenish and brownish leaf .....	2.00
e. Dark or other kinds .....	1.50

"For sun-dried Virginia leaf tobacco:

a. Light brown leaf tobacco .....	₱1.50
b. Brown leaf tobacco .....	1.00
c. Dark brown and other kinds .....	.80

"The shares of such manufacturers in such locally grown and produced tobacco to be resold to them shall be allocated in the same manner as the tobacco imported under this Act is distributed among them: *Provided*, That in computing the allocation of such locally grown Virginia leaf tobacco to such manufacturers the volume of their direct purchase from the farmers shall be taken into consideration.

"SEC. 1-*d*. The President of the Philippines may require the Philippine Tobacco Administration to assist the ACCFA in making purchase of Virginia-type leaf tobacco locally produced, assign to said Administration the function of making such purchase for and in behalf of the ACCFA, and to entrust to said Administration such other duties as may be necessary to carry out the provisions of the preceding section.

"SEC. 1-*e*. Any person, association or corporation which shall import Virginia-type leaf tobacco without the necessary licenses issued under this Act, and any officer or employee of the Central Bank who shall issue such license without the authorization of the President of the Philippines as provided in this Act or who shall obstruct the grant of the loans needed by the ACCFA, or any person, association, corporation, official or employee in the Government who violates any provision of this Act, shall be punished by a fine of not less than one thousand pesos nor more than ten thousand pesos, and by imprisonment for not less than one year nor more than five years, in the discretion of the Court: *Provided*, That if the offense is committed by an association or corporation, the president, manager or administrator and the director or directors committing the offense shall be responsible thereof; and should the offender be an alien, he shall, after final conviction, be deported without further deportation proceedings: *Provided, further*, That the leaf tobacco involved in the offense shall be forfeited to the Government."

SEC. 3. This Act shall take effect upon its approval.

Approved, August 25, 1954.

H. No. 2569

[REPUBLIC ACT No. 1195]

AN ACT APPROPRIATING FIVE HUNDRED THOUSAND PESOS TO DEFRAY THE NECESSARY EXPENSES TO NEGOTIATE A REVISION OF THE AGREEMENT CONCERNING TRADE AND RELATED MATTERS BETWEEN THE PHILIPPINES AND THE UNITED STATES.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. The sum of five hundred thousand pesos is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to defray the necessary expenses of missions to the United States and such other expenses as may be necessary to negotiate a revision of the Agreement concerning Trade and Related Matters between the Philippines and the United States. The missions shall be composed of such members as the President

may appoint in representation of the executive department and such members as may be appointed by the President of the Senate and the Speaker of the House of Representatives in representation of the Senate and House of Representatives, respectively. The missions may employ such technical staff or services as may be necessary to enable them to discharge their work.

SEC. 2. This Act shall take effect upon its approval.

Approved, August 25, 1954.

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H. No. 2580

[REPUBLIC ACT No. 1196]

AN ACT TO AMEND REPUBLIC ACT NUMBERED NINE HUNDRED ELEVEN, ENTITLED "AN ACT CREATING A TARIFF COMMISSION, DEFINING ITS POWERS, AND FOR OTHER PURPOSES," BY INSERTING BETWEEN SECTIONS EIGHTEEN AND NINETEEN OF SAID ACT A NEW SECTION TO BE KNOWN AS SECTION EIGHTEEN-A.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Republic Act Numbered Nine hundred eleven is hereby amended by inserting between sections eighteen and nineteen thereof a new section to be known as section eighteen-A which shall read as follows:

"SEC. 18-A. The President, upon prior investigation by and recommendation of the Commission, is hereby empowered to decrease by not more than sixty *per centum* or to increase by not more than ten times the rates of import duty however established when in his judgment such reduction or increase is necessary in the interest of national economy, general welfare, and national defense, any other provision of this Act to the contrary notwithstanding: *Provided*, That such rates shall be effective until modified by Congress: *Provided, further*, That the authority herein granted to the President shall expire on December thirty-one, nineteen hundred and fifty-five."

SEC. 2. This Act shall take effect upon its approval.

Approved, August 25, 1954.

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H. No. 2576

[REPUBLIC ACT No. 1197]

AN ACT TO FURTHER AMEND REPUBLIC ACT NUMBERED SIX HUNDRED ONE, AS AMENDED BY REPUBLIC ACT NUMBERED ELEVEN HUNDRED SEVENTY-FIVE.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Section two of Republic Act Numbered Six hundred one, as amended by Republic Act Numbered Eleven hundred seventy-five, is amended to read as follows:

"SEC. 2. The tax provided for in section one of this Act shall not be collected on foreign exchange used for the payment of the cost, transportation and/or other charges incident to importation into the Philippines of wheat flour, canned milk, canned beef, cattle, canned fish, cocoa beans,

malt, stabilizer and flavors, vitamin concentrate; supplies and equipment purchased directly by the Government or any of its instrumentalities for its own exclusive use; machinery, equipment, accessories, and spare parts, for the use of industries, miners, mining enterprises, planters and farmers; and fertilizers when imported by planters or farmers directly or through their cooperatives; articles or containers used, including materials for the manufacture of tin containers used by the importer himself in the manufacture or preparation of local products for consignment or export abroad; textbooks, reference books, and supplementary readers approved by the Board on Textbooks and/or established public or private educational institutions; paper imported by publishers for their exclusive use in the publication of books, pamphlets, magazines and newspapers; carbides, explosives and dynamite for mining purposes; drugs and medicines, and medical and hospital supplies listed in the appendix of this Act; payment in respect of reinsurance; payment in respect of marine and aviation insurance; spare parts to be used in the repair of vessels of Philippine registry or airplanes and such other parts thereof as may be certified by the Hulls and Boilers Division of the Bureau of Customs or the Civil Aeronautics Administration, respectively, as essential to the maintenance of vessels or airplanes; payment of purchase price of vessels or ships of any kind or nature intended for Philippine registry, ninety per cent of the ownership of which belongs exclusively to Filipinos, or charter fees of airplanes and vessels of Philippine register; remittances by airlines of American registry operating between the Philippines and the United States of income in the Philippines to their head offices in the United States: *Provided*, That such airlines have been granted a permit to operate under the Air Transport Agreement between the United States and the Philippines prior to the enactment of Republic Act Numbered Six hundred one; remittances for payment of principal and interests of foreign loan contracted under obligation of the Philippine Government or any of its instrumentalities; remittances for payment of living expenses of students pursuing courses of studies abroad not exceeding the equivalent of two hundred and fifty dollars per month including payment of tuition, books, medical expenses and other school fees; and dollar allocations for one trip a year and not exceeding three hundred dollars for each Moro pilgrim traveling abroad under permit of the Government; payment of premiums by veterans on life insurance policies under the Government of the United States, and payment of premiums and other amounts due by policyholders on life insurance policies issued before December nine, nineteen hundred and forty-nine, and payment of machinery and/or raw materials to be used by new and necessary industries as determined in accordance with Republic Act Numbered Thirty-five as amended by Republic Act Numbered Nine hundred and one."

SEC. 2. The new exemptions provided for in this amendatory Act shall take effect only on the dates which the President of the Philippines shall fix when in his judgment the interest of the national economy and general welfare so require.

SEC. 3. This Act shall take effect upon its approval.

Approved, August 28, 1954.

H. No. 2577

[REPUBLIC ACT No. 1198]

AN ACT CREATING THE OFFICE OF STATE ATTORNEYS IN THE DEPARTMENT OF JUSTICE AND DEFINING ITS POWERS AND DUTIES AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. There shall be in the Department of Justice an Office of State Attorneys composed of one chief, two assistant chiefs and sixteen state attorneys whose term of office shall expire on the thirty-first day of December, nineteen hundred and fifty-seven. The Chief of the Office shall receive a salary of twelve thousand pesos *per annum*, and shall have the rank of Solicitor General. He shall be assisted by two Assistant Chief Attorneys who shall each receive a salary of nine thousand pesos *per annum* and sixteen State Attorneys who shall each receive a salary of eight thousand pesos *per annum*.

The Chief and Assistant Chiefs of the Office of State Attorneys and the sixteen State Attorneys shall be appointed by the President of the Philippines with the concurrence of the Commission on Appointments.

No one shall be appointed as Chief or Assistant Chief of the Office of State Attorneys unless he has had at least ten years of trial court practice, and as State Attorney unless he has had at least five years of trial court practice in the Philippines; and appointment may take into account equitable representation of provinces in the Office, considering for this purpose the representation the provinces now already have in the offices of the provincial fiscals.

SEC. 2. The Chief and Assistant Chiefs of the Office of State Attorneys and the State Attorneys shall have the same powers as the provincial or city fiscal as provided for by law: *Provided*, That the State Attorney shall only assist or collaborate with the provincial fiscal or city attorney unless otherwise expressly directed and authorized by the Secretary of Justice.

In all cases involving crimes cognizable by the Court of First Instance, no complaint or information shall be filed without first giving the accused a chance to be heard in a preliminary investigation, where such accused shall be subpoenaed and appears before the investigating state attorney with the right to cross-examine the complainant and his witnesses. The preliminary investigation shall be held at the capital of the province where the crime was committed. The State Attorney shall certify under oath in the information to be filed by him that the defendant was given a chance to appear on his behalf or by counsel: *Provided, however*, That when a preliminary investigation has already been conducted by the Justice of the Peace or the Provincial or City Fiscal and where such official has found at least a *prima facie* case, the State Attorney may not conduct another preliminary investigation. To this end, the State Attorney may summon witnesses and require them to appear and testify under oath before him and/or issue *subpoena duces tecum*. The attendance of absent or recal-

citrant witnesses who may be summoned or whose testimony may be required by the State Attorneys under the authority herein conferred shall be enforced by proper process upon application to the corresponding Court of First Instance. In the investigation of criminal cases, any State Attorney shall be entitled to request the assistance of any law enforcement or investigation agency of the government.

The Chief of the Office of State Attorneys and the State Attorneys shall perform such other duties as in the interest of the public service may be assigned to them from time to time by the Secretary of Justice.

SEC. 3. The Office of State Attorneys shall be provided with such subordinate personnel as may be authorized by the appropriation law.

SEC. 4. Upon the organization of the Office of State Attorneys, the Prosecution Division in the Department of Justice shall be deemed abolished and its properties, furniture, equipment and records shall be transferred to the Office of State Attorneys.

SEC. 5. There is hereby authorized to be appropriated, out of any funds of the National Treasury not otherwise appropriated, the sum of three hundred thousand pesos for the salaries of the State Attorneys and their personnel and maintenance of the Office.

SEC. 6. This Act shall take effect upon its approval.

Approved, August 28, 1954.

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S. No. 98

H. No. 2398

[REPUBLIC ACT No. 1199]

AN ACT TO GOVERN THE RELATIONS BETWEEN  
LANDHOLDERS AND TENANTS OF AGRICUL-  
TURAL LANDS (LEASEHOLD AND SHARE TEN-  
ANCY).

*Be it enacted by the Senate and House of Representatives  
of the Philippines in Congress assembled:*

PART I

GENERAL PROVISIONS

SECTION 1. *Title.*—This Act shall be known as the “Agricultural Tenancy Act of the Philippines.”

SEC. 2. *Purpose.*—It is the purpose of this Act to establish agricultural tenancy relations between landholders and tenants upon the principle of social justice; to afford adequate protection to the rights of both tenants and landholders; to insure an equitable division of the produce and income derived from the land; to provide tenant-farmers with incentives to greater and more efficient agricultural production; to bolster their economic position and to encourage their participation in the development of peaceful, vigorous and democratic rural communities.

SEC. 3. *Agricultural Tenancy Defined.*—Agricultural tenancy is the physical possession by a person of land devoted to agriculture belonging to, or legally possessed by, another for the purpose of production through the labor of the former and of the members of his immediate farm house-



hold, in consideration of which the former agrees to share the harvest with the latter, or to pay a price certain or ascertainable, either in produce or in money, or in both.

SEC. 4. *Systems of Agricultural Tenancy; Their Definitions.*—Agricultural tenancy is classified into leasehold tenancy and share tenancy.

*Share tenancy* exists whenever two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid of labor available from members of his immediate farm household, and the produce thereof to be divided between the landholder and the tenant in proportion to their respective contributions.

*Leasehold tenancy* exists when a person who, either personally or with the aid of labor available from members of his immediate farm household, undertakes to cultivate a piece of agricultural land susceptible of cultivation by a single person together with members of his immediate farm household, belonging to or legally possessed by, another in consideration of a price certain or ascertainable to be paid by the person cultivating the land either in percentage of the production or in a fixed amount in money, or in both.

SEC. 5. *Definitions of Terms.*—As used in this Act:

(a) A *tenant* shall mean a person who, himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by, another, with the latter's consent for purposes of production, sharing the produce with the landholder under the share tenancy system, or paying to the landholder a price certain or ascertainable in produce or in money or both, under the leasehold tenancy system.

(b) A *landholder* shall mean a person, natural or juridical, who, either as owner, lessee, usufructuary, or legal possessor, lets or grants to another the use or cultivation of his land for a consideration either in shares under the share tenancy system, or a price certain or ascertainable under the leasehold tenancy system.

(c) *Agricultural year* is the period of time necessary for the raising of seasonal agricultural products, including the preparation of the land, and the sowing, planting and harvesting of the crop: *Provided, however,* That in the case of coconuts, citrus, coffee, ramie, and other crops where more than one harvest is obtained from one planting, the words "agricultural year" shall mean the period of time from the preparation of land to the first harvest and thereafter from harvest to harvest. In both cases, the period of time may be shorter or longer than a calendar year.

(d) *Farm implements* include hand tools or machines ordinarily employed in a farm enterprise.

(e) *Work animals* include animals ordinarily employed in a farm enterprise. The words include carabaos, horses, bullocks, etc.

(f) *Pulling of the seedlings* is a phase of farm work in which seedlings are uprooted from the seed beds immediately before transplanting.

(g) *Final harrowing* is the last stage in pulverizing the soil into fine particles in readying the field for the transplanting of the seedlings.

(h) *Reaping* is the cutting of rice stalks.

(i) *Harvesting* shall mean the gathering of the fruits or produce of a crop other than rice.

(j) *Piling into small stacks* used as a term in rice share tenancy shall mean the piling into several small stacks within the tenant's holdings of reaped and bundled stalks containing the grain, preparatory to their transportation to the place designated for their threshing.

(k) *Piling into big stacks* used as a term in rice share tenancy shall mean the piling into one huge stack of the several small stacks of reaped and bundled stalks containing grain, which constitute the entire harvest of the tenant from his holdings, preparatory to threshing.

(l) *Proven farm practices* include those sound farming practices which have attained general acceptance through usage or are officially recommended by the Department of Agriculture and Natural Resources.

(m) *Fair rental value* is an amount of money not in excess of allowable depreciation plus six per cent interest *per annum* on the investment computed at its market value: *Provided, however,* That the fair rental value for the work animal or animals and farm implements required to produce the crop shall not exceed five per cent of the gross harvest for the animal or animals and five per cent for implements: *And provided, further,* That whenever a tractor or power and the necessary implements are utilized interchangeably with work animals in the same holding during the same agricultural year the rental shall not exceed ten per cent for the combined services.

(n) *Immediately after* as used in this Act shall be inclusive of the last day of harvesting, threshing or processing and the next five days thereafter.

(o) *Immediate farm household* includes the members of the family of the tenant, and such other person or persons, whether related to the tenant or not, who are dependent upon him for support and who usually help him operate the farm enterprise.

(p) *Incapacity* means any cause or circumstance which prevents the tenant from fulfilling his contractual obligations and those imposed by this Act.

(q) *Inspect* means to examine and observe. However, such examinations and observations shall not include any acts of intimidation or coercion.

(r) *Auxiliary crop* is any product raised other than the crop to which the cultivation of the land is principally devoted; and excluding the produce of the lot referred to in Section twenty-six.

SEC. 6. *Tenancy Relationship; Its Definition.*—Tenancy relationship is a juridical tie which arises between a landholder and a tenant once they agree, expressly or impliedly, to undertake jointly the cultivation of land belonging to the former, either under the share tenancy or leasehold tenancy system, as a result of which relationship the tenant acquires the right to continue working on and cultivating the land, until and unless he is dispossessed of his holdings for any of the just causes enumerated in Section fifty or the relationship is terminated in accordance with Section nine.

SEC. 7. *Tenancy Relationship; How Established; Security of Tenure.*—Tenancy relationship may be established either verbally or in writing, expressly or impliedly. Once such relationship is established, the tenant shall be entitled to security of tenure as hereinafter provided.

SEC. 8. *Limitation of Relation.*—The relation of landholder and tenant shall be limited to the person who furnishes land, either as owner, lessee, usufructuary, or legal possessor, and to the person who actually works the land himself with the aid of labor available from within his immediate farm household.

SEC. 9. *Severance of Relationship.*—The tenancy relationship is extinguished by the voluntary surrender of the land by, or the death or incapacity of, the tenant, but his heirs or the members of his immediate farm household may continue to work the land until the close of the agricultural year. The expiration of the period of the contract as fixed by the parties, and the sale or alienation of the land do not of themselves extinguish the relationship. In the latter case, the purchaser or transferee shall assume the rights and obligations of the former landholder in relation to the tenant. In case of death of the landholder, his heir or heirs shall likewise assume his rights and obligations.

SEC. 10. *Contracts; Nature and Continuity of Conditions.*—The terms and conditions of tenancy contracts, as stipulated by the parties or as provided by law, shall be understood to continue until modified by the parties. Modifications of the terms and conditions of contracts shall not prejudice the right of the tenant to the security of his tenure on the land as determined in Sections six, seven, and forty-nine.

SEC. 11. *Freedom to Contract in General.*—The landholder and the tenant shall be free to enter into any or all kinds of tenancy contract, as long as they are not contrary to law, morals or public policy. Except in case of fraud, error, force, intimidation or undue influence, when such contract is reduced to writing and registered as hereinafter provided, the latter shall be conclusive evidence of what has been agreed upon between the contracting parties, if not denounced or impugned within thirty days after its registration.

Said contract shall be contrary to law, morals and public policy:

*A. In Share Tenancy*

(a) If the tenant is to receive less than the corresponding share for the different contributions he made to the production of the farm as hereinafter provided.

(b) If it is stipulated that the tenant or any member of his immediate farm household shall without compensation perform any work or render any service not connected with the tenant's duties and obligations provided under this Act.

*B. In Leasehold Tenancy*

(a) If the tenant-lessee is to pay to the landholder-lessor, as a consideration for the use of the land, an amount in excess of that hereinafter provided for the kind and class of land involved.

(b) If the tenant-lessee is to pay the landholder-lessor a consideration in excess of the amount prescribed as fair rental value, as determined pursuant to the provisions of this Act, for the use of work animals, services and/or farm implements belonging to the landholder-lessor, in case it is agreed between the parties that the latter shall furnish any or all of these items of production.

(c) If it is stipulated that, as a condition precedent to the commencement or continuance of the lease, the tenant-lessee shall rent work animals, services or farm implements, or shall make use of any store or services operated by the landholder-lessor or any other person, or that the landholder-lessor may impose fines, deductions and/or assessments, or that the tenant-lessee shall, without compensation, perform any work or render any service not connected with the tenant's duties and obligations provided under this Act.

SEC. 12. *Form and Registration of Contract.*—A contract of tenancy in writing, in order to be conclusive as evidence, shall be drawn in quadruplicate in the language or dialect known to all the parties thereto and signed or thumb-marked both by the landholder or his authorized representative, and the tenant himself, before two witnesses, one to be chosen by each party. If any of the parties does not know how to read, one of the witnesses, to be chosen by him, shall read the contents of the document to him. Each of the contracting parties shall retain a copy of the contract and the third and fourth copies shall be delivered to the municipal treasurer of the municipality where the land which is the subject-matter of the contract is located, who shall file and register the third copy in his office and forward the fourth copy to the court: *Provided*, That in order that a tenancy contract may be registered, it shall be the duty of the municipal treasurer to require the presentation of the copies of the landholder and tenant, respectively, and to place an annotation on each copy of the fact of registration in his office, stating the date, time and place of registration as well as the entry or registration number.

The form of contract shall be uniform and shall be prepared and furnished by the court. The contracting parties shall acknowledge the execution of the contract before the municipal treasurer or justice of the peace or the mayor of the municipality where the land is situated. No fees or stamps of any kind shall be paid or required.

When one of the parties is unable to read, in case of doubt the burden of proof to show that he understood the terms of the contract shall rest upon the other party who is able to read.

SEC. 13. *Registry of Tenancy Contracts.*—For the purposes of this Act, the municipal treasurer of the municipality wherein the land which is the subject-matter of a tenancy contract is situated shall keep a record of all such contracts entered into within his jurisdiction, to be known as "Registry of Tenancy Contracts." He shall keep this registry together with a copy of each contract entered therein, and make annotations on said registry of all subsequent acts relative to each contract, such as its renewal, novation, cancellation, etc.: *Provided*, That the

municipal treasurer shall not charge any fee for the registration of said contracts or of any subsequent acts relative thereto, none of which shall be subject to the documentary stamp tax.

SEC. 14. *Change of System.*—The tenant shall have the right to change the tenancy contract from one of share tenancy to the leasehold tenancy and vice versa and from one crop-sharing arrangement to another of the share tenancy. If the share tenancy contract is in writing and is duly registered, the right may be exercised at the expiration of the period of the contract. In the absence of any written contract, the right may be exercised at the end of the agricultural year. In both cases the change to the leasehold system shall be effective one agricultural year after the tenant has served notice of his intention to change upon the landholder.

SEC. 15. *Interest on Loans or Advances.*—On all loans or advances obtained by the tenant from the landholder in connection with the cultivation, planting, harvesting and other incidental expenses for the improvement of the crop planted, as well as loans or advances for the subsistence of the tenant and his family, the interest which may be stipulated shall not exceed eight *per centum* per calendar year: *Provided*, That on all loans or advances other than money, such as grain or other agricultural products, made to the tenant by the landholder, the interest shall be computed on the basis of the current price of the produce at the time it was loaned. Violation of the provisions of this section shall be punished in accordance with the Usury Law.

SEC. 16. *Memorandum of Loans or Advances.*—Any obligation referring to any amount either in money or in kind, including the payment of interest, which the tenant may have received from time to time as loan or advance from the landholder, shall be void unless the same, or some note or memorandum thereof, be in writing in a language or dialect known to the party charged, and subscribed by said party, or by his duly authorized agent.

SEC. 17. *Form of Final Accounting.*—The final accounting between landholder and tenant at the end of each agricultural year shall be effected within ten days after the threshing in case of rice and within the same period of time after the harvest or gathering of the fruits in the case of other crops. In case of crops which have to be sold in processed form, the final accounting shall be within five days after the sale is consummated and the sales receipt shall be exhibited to the tenant.

The accounting shall be made to appear in a note or memorandum written in a language or dialect known to the tenant and signed by both parties in the presence of two witnesses who shall be selected by each party. Each of the contracting parties shall be furnished with a copy of said note or memorandum and such final accounting, once duly signed by both parties and two witnesses, shall be deemed conclusive evidence of its contents, except in case of fraud, error, force, intimidation or undue influence. When one of the parties is unable to read, the burden of proof, in case of doubt, to show that he understood the accounting, shall rest upon the other party who is able to read.

In the absence of a written accounting in accordance with the preceding paragraph, the tenant may, within three years from the date of the threshing of the crop in question, petition the Court to compel the landholder to render an accounting of the same in accordance with this section.

SEC. 18. *Settlement of Debts.*—Once the accounting is made, any amount of money which the landholder may have advanced to the tenant for expenses of cultivation, harvesting or gathering of the crop or for his own private use, as well as any amount of grain or agricultural products advanced for his subsistence and that of his family, shall be paid by the tenant out of his share either in grain or in money, at the option of the latter: *Provided*, That such grain or agricultural products shall be appraised in money according to their current market value at the place where the land is located at the time of their delivery to the tenant: *Provided, further*, That in case his share is not sufficient, his outstanding debt shall be reduced to money and shall bear an interest of not more than ten *per centum per annum*: *And provided, finally*, That the remaining debt of the tenant once converted into money shall not again be converted into kind. Said outstanding debt may, however, be paid in money or in agricultural products appraised at the local current market price at the time of payment.

SEC. 19. *Exemption from Lien and/or Attachment.*—Twenty-five *per centum* of the tenant's share of the produce of the land in share tenancy, or of the entire produce in leasehold tenancy, one work animal and one of each kind of farm implement belonging to the tenant, provided that the value of such work animal and implements do not exceed five hundred pesos, shall be exempt from lien and attachment.

SEC. 20. *Use of Official Weights and Measures.*—In all transactions entered into between the landholder and the tenant concerning agricultural products the official weights and measures of the Government shall be used.

SEC. 21. *Ejectment; Violation; Jurisdiction.*—All cases involving the dispossession of a tenant by the landholder or by a third party and/or the settlement and disposition of disputes arising from the relationship of landholder and tenant, as well as the violation of any of the provisions of this Act, shall be under the original and exclusive jurisdiction of such court as may now or hereafter be authorized by law to take cognizance of tenancy relations and disputes.

## PART II

### THE SHARE SYSTEM

#### Chapter I

#### *Common Provisions*

SEC. 22. *Rights of the Tenant.*

(1) The tenant shall be free to work elsewhere whenever the nature of his farm obligations warrants his temporary absence from his holdings.

(2) The tenant shall, aside from his labor, have the right to provide any of the contributions for production whenever he can do so adequately and on time.



(3) The tenant's dwelling shall not, without his consent, be removed from the lot assigned to him by the landholder, unless there is a severance of the tenancy relationship between them as provided under Section nine, or unless the tenant is ejected for cause, and only after the expiration of forty-five days following such severance of relationship or dismissal for cause.

If the tenant is dismissed without just cause and he is constrained to work elsewhere, he may choose either to remove his dwelling at the landholder's cost or demand the value of the same from the landholder at the time of the unjust dismissal.

(4) The tenant shall have the right to be indemnified for his labor and expenses in the cultivation, planting, or harvesting and other incidental expenses for the improvement of the crop raised in case he is dispossessed of his holdings, whether such dismissal is for a just cause or not, provided the crop still exists at the time of the dispossession.

**SEC. 23. *Obligations of the Tenant.***—It shall be the obligations of the tenant:

(1) To cultivate and take care of the farm, the growing crops and other improvements entrusted to him as a good father of a family, by doing all the work necessary in accordance with proven farming practices.

(2) To inform the landholder at once of any trespass committed by a third person upon the farm.

(3) To take reasonable care of the work animals and farm implements used in the joint undertaking. He shall not use the work animals and farm implements entrusted to him by the landholder for purposes other than those intended, or allow their use by other persons without the knowledge and consent of the landholder.

The tenant shall not abandon or surrender his holdings and leave the farm and growing crop and other improvements unattended during the work season, except for just and reasonable cause. In case of such unjustified abandonment or surrender, any or all of his expected share in the crop may, in the discretion of the court, be forfeited in favor of the landholder to the extent of the damage caused thereby.

Any of the following shall be considered just and reasonable cause for the tenant to terminate the tenancy relationship:

(a) Cruel, inhuman or offensive treatment on the part of the landholder or his representative toward the tenant or any member of his immediate farm household.

(b) Non-compliance on the part of the landholder with any of the obligations imposed upon him by the provisions of this Act or by the contract.

(c) If the landholder or his representative compels the tenant or any member of his immediate farm household to do any work or render any service not in any way connected with his farm work, or even without compulsion if no compensation is paid.

(d) Commission of a crime by the landholder or his representative against the tenant or any member of his immediate farm household.

**SEC. 24. *Prohibitions to Tenant.***

(1) It shall be unlawful for the tenant, whenever the area of his holdings is five hectares or more, or is of sufficient

size to make him and the members of his immediate farm household fully occupied in its cultivation, to contract to work at the same time on two or more separate holdings belonging to different landholders under any system of tenancy, without the knowledge and consent of the landholder with whom he first entered into tenancy relationship.

(2) It shall be unlawful for a share-tenant to employ a sub-tenant to furnish labor on any phase of the work required of him under this Act, except in cases of illness or any temporary incapacity on his part, in which eventuality the tenant or any member of his immediate farm household is under obligation to report such illness or incapacity to the landholder. Payment to the sub-tenant, in whatever form, for services rendered on the land under this circumstance, shall be for the account of the tenant.

(3) Subject to provisions of the next preceding paragraph, land entrusted for cultivation to a leasehold tenant shall not be sub-let nor shall the lease be assigned by the tenant to another person, except with the written consent of the lessor.

*SEC. 25. Rights of the Landholder:*

(1) The landholder shall have the right to choose the kind of crop and the seeds which the tenant shall plant in his holdings: *Provided, however,* That if the tenant should object, the court shall settle the conflict, according to the best interest of both parties.

(2) The landholder shall have the right to require the use of fertilizer of the kind or kinds shown by proven farm practices to be adapted to the requirements of the land.

(3) The landholder shall have the right to inspect and observe the extent of compliance on the part of the tenant with the terms and conditions of their contract and the provisions of this Act.

(4) In cases where the crop has to be sold in processed form before division and the tenant has no representative, the landholder shall have the right to deal with millers or processors in representation of the tenant.

*SEC. 26. Obligations of the Landholder:*

(a) The landholder shall furnish the tenant an area of not less than one thousand square meters where the latter may construct his dwelling, raise vegetables, poultry, pigs, and other animals and engage in minor industries, the products of which shall accrue to the tenant exclusively.

(b) The landholder shall keep the tenant in the peaceful possession and cultivation of his holdings which are the subject-matter of the contract.

*SEC. 27. Prohibitions to the Landholder:*

(1) The landholder shall not dispossess the tenant of his holdings except for any of the causes enumerated in Section fifty, and without the cause having been proved before, and the dispossession authorized by, the court; otherwise, he shall, aside from the penalty of fine and/or imprisonment provided for any violation of this Act, be liable to the tenant for damages to the extent of the landholder's participation in the harvest in addition to the tenant's right under Section twenty-two of this Act.

(2) The landholder shall be responsible for the payment of taxes levied by the Government upon the land which is

the subject-matter of the contract and it shall be unlawful to make the tenant bear a part or all of the same, either directly or indirectly.

(3) The landholder shall not require the tenant to bear, directly or indirectly, any part of the rent, "canon" or other consideration which he, the former, may be under obligation to pay to a third person for the use of the land.

SEC. 28. *Expenses for Seeds; Fertilizer; Pest and Weed Control Expenses.*

(1) The same amount of seeds or seedlings used in the production of any crop shall be deducted from the gross harvest and returned to the party who furnished the same.

(2) The cost of fertilizer and expenses for pest and weed control as evidenced by sales invoices shall be paid out of the gross harvest and returned to the party who advanced the cost and expenses.

SEC. 29. *Irrigation System.*—The cost of the construction of an irrigation system, including the distributory canals, shall be borne exclusively by the landholder. The cost of maintenance and operation of the system shall, however, be borne by the landholder and the tenant in proportion to their respective shares in the harvest.

SEC. 30. *Auxiliary Crop.*—In case the land is planted to an auxiliary crop, the tenant shall receive eighty *per centum* and the landholder twenty *per centum* of the net produce, provided all expenses of production are borne by the tenant.

Auxiliary crops shall not, however, be construed to include the crops or products raised from the garden, poultry and other industries carried on the lot specifically provided for the tenant under Section 26(a) hereof.

SEC. 31. *Cost of Fertilizer, etc.; when to be Advanced by the Landholder.*—Whenever the use of fertilizer or the application of insect, disease and rodent control measures is directed by the landholder, he shall advance their cost, which shall be deducted from the gross produce.

## Chapter II

### *Rice Share Tenancy*

SEC. 32. *Share Basis.*—The parties shall, on ricelands which produce a normal average of more than forty cavanes per hectare for the three agricultural years next preceding the current harvest, receive as shares in the gross produce, after setting aside the same amount of palay used as seed, and after deducting the cost of fertilizer, pest and weed control, reaping and threshing, the amount corresponding to the total equivalent of their individual contributions, computed as follows:

Contribution	Participation
1. Land .....	30%
2. Labor .....	30%
3. Farm implements .....	5%
4. Work Animals .....	5%
5. Final harrowing of the field immediately before transplanting .....	5%
6. Transplanting .....	25%

SEC. 33. *Share Basis on Second Class Land.*—On ricelands, which produce a normal average of forty cavans or less per hectare for the three agricultural years next

preceding the current harvest, the participation for the contribution of the land shall be twenty-five *per centum* and that of labor, thirty-five *per centum*.

SEC. 34. *Reimbursement Not Allowed*.—Contributions or shares in the contribution to the production of the crop in the form of cash, grain or services, once shouldered or rendered alone by one party may not be reimbursed by the other party after the phase or phases of work required in the joint undertaking shall have been completed.

SEC. 35. *Sharing of Expenses*.—In case the landholder and the tenant agree to share equally in the expenses of final harrowing of field and transplanting, the latter may engage the services of persons or helpers to perform these phases of farm work, provided the rates for each shall have been previously determined and agreed upon between the landholder and the tenant. In case of disagreement upon said rates, the party who undertakes the work shall bear all the expenses, and be entitled to the corresponding share in the harvest, after deducting the expenses of reaping.

SEC. 36. *Further Rights of the Tenant*.—In addition to the provision of Section twenty-two, the tenant shall have the right to:

1. Determine when to scatter the seeds, to transplant the seedlings, and to reap the harvest, provided they shall be in accordance with proven farm practices and after due notice to the landholder.

2. Choose the thresher which shall thresh the harvest whenever it is the best available in the locality and the best suited to the landholder's and tenant's needs and provided the rate charged is equal to or lower than the rate charged by the owner of other threshers under similar circumstances: *Provided, further*, That in cases where there are more than one tenant the selection of the majority of the tenants shall prevail: *Provided, finally*, That if the landholder is the owner of a thresher and is ready and willing to grant equal or lower rates under the same conditions, the use of the landholder's thresher shall be given preference.

3. Apply appropriate pest, insect, disease and rodent control measures whenever in his judgment such action is necessary: *Provided, however*, That if a tenant fails to apply any of the above control measures after the landholder has made a request in writing for such action, he shall be liable for any loss resulting from such failure.

4. Apply fertilizer of the kind or kinds shown by proven farm practices to be adapted to the requirements of the land, provided the landholder has not exercised his right under Section twenty-five to require the use of such fertilizer.

SEC. 37. *Further Rights of the Landholder*.—In addition to the provisions of Section twenty-five, the landholder, by himself or through his representative, may determine:

1. The proper height of *pilapils* or dikes according to the local practices.

2. The location and size of irrigation canals.

3. The site for the stacking of the harvest, provided it shall not be farther than one kilometer from the center of the area cultivated by a majority of the tenants.

4. The date of threshing.

*Provided, however,* That in case of disagreement by the tenant in any of the foregoing instances, the court shall determine whatever may be in the interest of both parties.

SEC. 38. *Labor; What It Constitutes.*—The tenant shall perform the following as the labor contributed by him under Section thirty-two:

1. The preparation of the seedbed which shall include plowing, harrowing, and watering of the seedbed, the scattering of the seeds, and the care of the seedlings.

2. The plowing, harrowing, and watering of the area he is cultivating, except final harrowing of the field as an item of contribution specified in Section thirty-two of this Act.

3. The maintenance, repair and weeding of dikes, paddies, and irrigation canals in his holdings.

4. The pulling and bundling of the seedlings preparatory to their transplanting.

5. Care of the growing plants.

6. Gathering and bundling of the reaped harvest.

7. The piling of the bundles into small stacks.

8. The preparation of the place where the harvest is to be stacked.

9. Gathering of the small stacks and their transportation to the place where they are to be stacked.

10. Piling into a big stack preparatory to threshing.

SEC. 39. *Prohibition on Pre-Threshing.*—It shall be unlawful for either the tenant or the landholder, without mutual consent, to reap or thresh a portion of the crop at any time previous to the date set for its threshing. Any violation by either party shall be treated and penalized in accordance with this Act and/or under the general provisions of law applicable to the act committed.

SEC. 40. *Place of Crop Division.*—The division of the crop shall be made in the same place where the harvest has been threshed and each party shall transport his share to his warehouse or barn, unless the contrary is stipulated by the parties.

### Chapter III

#### *Share Tenancy on Crops other than Rice*

SEC. 41. *Basis of Shares in Crops other than Rice.*—The landholder and the tenant on lands which produce crops other than rice shall be free to enter into any contract stipulating the ratio of crop division. In the absence of a stipulation, the customs of the place shall govern: *Provided,* That whether the basis of division of the crop is the contract between the parties or the customs of the place, the share of the tenant for his labor in the production shall not be less than thirty per cent of the harvest or produce, after deducting the expenses for harvesting and/or initial processing: *Provided, further,* That in cases where the share of the tenant is, according to local practices or customs prevailing at the time of the approval of this Act, more than the minimum herein set, the tenant's share thus established by local practices or customs shall prevail and be considered the minimum.

## PART III

## THE LEASEHOLD TENANCY

SEC. 42. *Landholder-Lessor and Tenant-Lessee, Defined.* Any person, natural or juridical, either as owner, lessee, usufructuary or legal possessor of agricultural land, who lets, leases or rents to another said property for purposes of agricultural production and for a price certain or ascertainable either in an amount of money or produce, shall be known as the landholder-lessor; and any person who, with the consent of the former, tills, cultivates or operates said land, susceptible of cultivation by one individual, personally or with the aid of labor available from among his own immediate farm household, is a tenant-lessee.

SEC. 43. *Rights and Obligations of Tenant-Lessee.*—With the creation of the tenancy relationship arising out of the contract between the landholder-lessor and tenant-lessee, the latter shall have the right to enter the premises of the land, and to the adequate and peaceful enjoyment thereof. He shall have the right to work the land according to his best judgment, provided the manner and method of cultivation and harvest are in accordance with proven farm practices. Upon termination of the relationship, he shall be entitled to one half of the value of the improvements made by him, provided they are reasonable and adequate to the purposes of the lease.

The tenant-lessee shall pay the consideration stipulated in the lease contract provided it shall not exceed the limit fixed in Section forty-six. In the absence of stipulation, the consideration shall be that established in said Section forty-six. He shall make proper use of the land and the improvements thereon and shall be under obligation to cultivate it as a good father of a family, by doing all the work considered reasonable and necessary in accordance with proven farm practices. He is likewise obliged to take reasonable care of the work animals and farm implements that may be delivered to him by the landholder, in case it is agreed between the parties that the landholder-lessor shall furnish any or all of them.

SEC. 44. *Rights of Landholder-lessor.*—The landholder-lessor or his duly authorized representatives shall have the right to inspect the premises of the land which is the subject of the lease for the purpose of ascertaining the tenant's compliance with the provisions of the contract and of this Act, but in no case shall he exercise any coercion, intimidation or violence in word or deed.

SEC. 45. *Manner of Rental Payment.*—Payment of the consideration for the use of land may be made either in an amount certain or ascertainable in money or in produce, or both.

SEC. 46. *Consideration for the Use of Land.*

(a) The consideration for the use of ricelands, shall not be more than thirty *per centum* of the gross produce for first class lands and not more than twenty-five *per centum* for second class lands. Classification of ricelands shall be determined by productivity: first class lands being those which yield more than forty cavanese per hectare and second class lands being those which yield



forty cavanese or less, the same to be computed upon the normal average harvest of the three preceding years.

(b) The consideration for agricultural land where exist fruit trees and other useful trees and plants, from which the whole or any portion of the produce of the said land is taken, shall not be more than what have been specified in the preceding section: *Provided, however*, That additional considerations for the enjoyment of said trees and useful plants, if the principal product is rice or other crops, shall be decided and specified by negotiation between the landholder-lessor and the tenant-lessee: *Provided, further*, That where the tenant-lessee, during the period of the lease and/or in consideration thereof, plants and/or takes care of said trees and plants, with the consent of the landholder-lessor, the tenant-lessee shall be compensated by the latter in the manner agreed between them.

(c) The consideration for the use of sugar lands, fishponds, saltbeds and of lands devoted to the raising of livestock shall be governed by stipulation between the parties.

SEC. 47. *Rental of Work Animals, etc. and Applicability of Schedules.*—Upon agreement of the parties, the tenant-lessee may make use of such work animals, farm implements or services belonging to the landholder-lessor as are available for hire, the consideration of which shall be based on their fair rental value.

The rates on the fair rental value for the use of work animals, farm implements and services, belonging to the landholder-lessor shall be those provided in Schedules "A", "B", and "C", which shall apply upon approval of this Act and shall remain in force, unless the Secretary of Agriculture and Natural Resources revises the same in accordance with Section fifty-two.

SEC. 48. *Loans and Interests.*—Loans, either in money or in kind, obtained by a tenant-lessee from the landholder-lessor shall be payable at the time stipulated: *Provided, however*, That this shall not be construed as prejudicing the right of the borrower to repay his obligation before the date of maturity. The loan, unless it is otherwise stipulated, shall be payable in money at not more than eight per cent interest *per annum*, computed from the date the indebtedness was contracted up to and including the date of payment. A note or memorandum to evidence such indebtedness shall be executed in accordance with the provision of Section sixteen.

#### PART IV

##### SECURITY OF TENURE

SEC. 49. *Ejectment of Tenant.*—Notwithstanding any agreement or provision of law as to the period, in all cases where land devoted to any agricultural purpose is held under any system of tenancy, the tenant shall not be dispossessed of his holdings except for any of the causes hereinafter enumerated and only after the same has been proved before, and the dispossession is authorized by, the court.

SEC. 50. *Causes for the Dispossession of a Tenant.*—Any of the following shall be a sufficient cause for the dispossession of a tenant from his holdings:

(a) The *bona fide* intention of the landholder to cultivate the land himself personally or through the employment of farm machinery and implements: *Provided, however*, That should the landholder not cultivate the land himself or should fail to employ mechanical farm implements for a period of one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and damages for any loss incurred by him because of said dispossession: *Provided, further*, That the landholder shall, at least one year but not more than two years prior to the date of his petition to dispossess the tenant under this sub-section, file notice with the court and shall inform the tenant in writing in a language or dialect known to the latter of his intention to cultivate the land himself, either personally or through the employment of mechanical implements, together with a certification of the Secretary of Agriculture and Natural Resources that the land is suited for mechanization: *Provided, further*, That the dispossessed tenant and the members of his immediate household shall be preferred in the employment of necessary laborers under the new set-up.

(b) When the tenant violates or fails to comply with any of the terms and conditions of the contract or any of the provisions of this Act: *Provided, however*, That this subsection shall not apply when the tenant has substantially complied with the contract or with the provisions of this Act.

(c) The tenant's failure to pay the agreed rental or to deliver the landholder's share: *Provided, however*, That this shall not apply when the tenant's failure is caused by a fortuitous event or force majeure.

(d) When the tenant uses the land for a purpose other than that specified by agreement of the parties.

(e) When a share-tenant fails to follow those proven farm practices which will contribute towards the proper care of the land and increased agricultural production.

(f) When the tenant through negligence permits serious injury to the land which will impair its productive capacity.

(g) Conviction by a competent court of a tenant or any member of his immediate family or farm household of a crime against the landholder or a member of his immediate family.

SEC. 51. *Burden of Proof*.—The burden of proof to show the existence of a lawful cause for the ejectment of a tenant shall rest upon the landholder.

## PART V

### SPECIAL PROVISIONS

SEC. 52. *Duties of the Secretary of Agriculture and Natural Resources*.—It shall be the duty of the Secretary of Agriculture and Natural Resources to:

1. Conduct such educational programs as circumstances may require adequately to acquaint tenants and landholders with their rights and responsibilities under this Act.

2. Revise the rental rates provided for in Schedules "A" and "B", whenever such revision is made necessary by changes in values and prices, so that the rental rates shall

conform to the standard of fair rental value as defined in Section 5 (m).

3. Facilitate the preparation and registration of landholder-tenant contracts through the distribution of appropriate printed forms and instructions to guide the interested parties in drafting and executing rental agreements. The forms of contracts must bear the approval of the court.

4. Conduct surveys and researches to determine the extent of compliance, adaptability to different crops and areas and the fairness of this Act to all parties affected by its implementation.

5. Submit an annual report to the President containing an analysis showing the progress made towards attaining the objectives enumerated in Section two of this Act; and recommendations concerning methods of improving the implementation and general effectiveness of this Act. Copies of this report shall be provided to members of the Congress.

SEC. 53. *Duties of Secretary of Justice.*—The Secretary of Justice, through the Executive Judge of the Court, shall be responsible for formulating a national enforcement program, among other things, through the assignment of judges and personnel, which will insure the full enforcement of the provisions of this Act.

SEC. 54. *Representation by Counsel.*—In all cases wherein a tenant cannot afford to be represented by counsel, it shall be the duty of the Public Defender of the Department of Labor to represent him, upon proper notification by the party concerned, or the court of competent jurisdiction shall assign or appoint counsel *de oficio* for the indigent tenant.

SEC. 55. *Applicability of General Laws.*—The provisions of existing laws which are not inconsistent herewith shall apply to the contracts governed by this Act as well as to acts or omissions by either party against each other during, and in connection with, their relationship.

SEC. 56. *Doubts to Be Solved in Favor of the Tenant.*—In the interpretation and enforcement of this Act and other laws as well as of the stipulations between the landholder and the tenant, the courts and administrative officials shall solve all grave doubts in favor of the tenant.

SEC. 57. *Penal Provision.*—Violation of any of the provisions of this Act shall be punished with a fine not exceeding two thousand pesos or imprisonment not exceeding one year, or both, in the discretion of the Court.

SEC. 58. *Separability of Provisions.*—If for any reason, any section or provision of this Act shall be questioned in any court, and shall be held to be unconstitutional or invalid, no other section or provision of this Act shall be affected thereby.

SEC. 59. *Repealing Provisions.*—Public Act Numbered Four thousand fifty-four, as amended by Republic Act Numbered Thirty-four, Commonwealth Act Numbered Fifty-three, Commonwealth Act Numbered Four hundred sixty-one as amended by Republic Act Numbered Forty-four, and all laws, rules and regulations inconsistent herewith are hereby repealed.

SEC. 60. *Effective Date.*—This Act shall take effect upon its approval.

Approved, August 30, 1954.

### SCHEDULE "A"

The rental value of work animals and farm implements other than machinery, shall not exceed the allowable depreciation charges plus six per cent (6%) interest *per annum* computed on the market value of the said work animals and farm implements as hereinbelow fixed. The market value of work animals and farm implements not fixed in this Schedule shall be those prevailing in the locality where the said animals and implements are rented.

Item	Market value	Period of depreciation in years	Allowable depreciation charge	Allowable interest at 6 per cent	Fair rental value <i>per annum</i>
Carabao .....	P300.00	10	P30.00	P18.00	P48.00
Bullock .....	600.00	7	85.91	36.00	121.00
Horse, native .....	150.00	8	18.75	9.00	27.75
Cattle .....	200.00	7	28.57	12.00	40.57
Plow, iron .....	40.00	5	8.00	2.40	10.40
Plow, wooden .....	25.00	2	12.50	1.50	14.00
Harrow, iron .....	18.00	5	3.60	1.00	4.68
Carreton (native cart)....	400.00	10	40.00	24.00	64.00

### SCHEDULE "B"

The rental value for farm machineries inclusive of tractors, tractor equipment, engines, motors, and pumps shall not exceed the allowable depreciation equal to one-tenth (1/10) of the current market value plus interest at six per cent (6%) *per annum*.

### SCHEDULE "C"

The amounts to be charged by the landholder when he performs services in the operation of the farm enterprise shall not exceed the rates in the locality where such services are rendered.

H. No. 2381

[REPUBLIC ACT No. 1200]

AN ACT APPROPRIATING FUNDS FOR PUBLIC WORKS AND AMENDING REPUBLIC ACT NUMBERED NINE HUNDRED AND TWENTY.

Approved, September 2, 1954.

NOTE.—Due to lack of space, the text of Republic Act No. 1200, known as "An Act appropriating funds for public works and amending Republic Act No. 920" is omitted in this issue.

H. No. 2553

[REPUBLIC ACT No. 1201]

AN ACT TO AMEND AND REPEAL CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED FOUR HUNDRED NINE, AND FOR OTHER PURPOSES.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Section twenty of Republic Act Numbered Four hundred nine is amended to read as follows:

“SEC. 20. *City Departments.*—There shall be the following city departments over which the Mayor shall have direct supervision and control, except over the Office of the City Fiscal which shall be under the Department of Justice, any existing law to the contrary notwithstanding:

1. Department of Engineering and Public Works
2. Police Department
3. Office of the City Fiscal
4. Fire Department
5. Department of Finance
6. Department of Assessment
7. Department of Health
8. Department of Public Services

“The Board may from time to time make such readjustment of the duties of the several departments as the public interest may demand.”

SEC. 2. Article VIII of the same Act, including section thirty-eight under said Article, is repealed and in lieu thereof the following is inserted:

“ARTICLE VIII.—*The Office of the City Fiscal*

“SEC. 38. *The City Fiscal and Assistant City Fiscals.*—There shall be in the Office of the City Fiscal one chief to be known as the City Fiscal with the rank of a district judge, an assistant chief to be known as the first assistant city fiscal, three second assistant city fiscals, who shall be the chiefs of divisions, and thirty-eight assistant fiscals, who shall discharge their duties under the general supervision of the Secretary of Justice.

“The City Fiscal and his assistants shall receive the salaries hereinafter set forth, which shall be paid by the City of Manila:

- (a) City Fiscal, twelve thousand pesos *per annum*.
- (b) First assistant city fiscal, eleven thousand pesos *per annum*.
- (c) Three second assistant city fiscals who shall be the chiefs of the three divisions, ten thousand pesos *per annum* each.
- (d) Three assistant fiscals, eight thousand four hundred pesos *per annum* each.
- (e) Six assistant fiscals, seven thousand two hundred pesos *per annum* each.
- (f) Six assistant fiscals, six thousand six hundred pesos *per annum* each.
- (g) Six assistant fiscals, six thousand pesos *per annum* each.

(h) Six assistant fiscals, five thousand four hundred pesos *per annum* each.

(i) Six assistant fiscals, five thousand one hundred pesos *per annum* each.

(j) Five assistant fiscals, four thousand eight hundred pesos *per annum* each."

"SEC. 38—A. *Organization of the Office into three divisions.*—To promote a more efficient performance of the functions and duties of the Office, the City Fiscal shall organize said office into three divisions as follows:

(a) Preliminary Investigation Division which shall have exclusive charge of the conduct of preliminary investigations of all crimes and violations of city ordinances;

(b) Prosecution Division which shall have exclusive charge of the prosecution of criminal cases and shall represent the city in all civil cases wherein the city or any officer thereof in his official capacity is a party; and

(c) Miscellaneous Division which shall render legal opinions, draw ordinances, when required by the Board, contracts, bonds, leases, and other documents involving any interest of the city, and inspect and pass upon all such documents already drawn but pending approval by the city officer concerned.

"The City Fiscal shall effect, from time to time, such changes in the organization of the said three divisions as the exigencies of the service demand. This organization shall be without prejudice to the power of the City Fiscal to designate any single assistant fiscal or group of assistant fiscals to investigate and also prosecute the same case or cases: *Provided*, That notwithstanding any provision herein to the contrary, no assistant fiscal already holding office on passage of this Act shall, by reason of any reorganization, be removed from office or be demoted to a lower category or scale of salary except for cause and upon the compliance of the due processes provided for by law."

"SEC. 38—B. *Duties of the City Fiscal.*—The City Fiscal shall be the chief legal adviser of the city and all offices and departments thereof. He shall, personally or through any assistant, represent the city in all civil cases wherein the city or any officer thereof in his official capacity is a party; shall attend, when required, meetings of the Board, draw ordinances, contracts, bonds, leases, and other documents involving any interests of the city and inspect and pass upon all such documents already drawn; shall give his opinion in writing when requested by the Mayor or Board upon any question relating to the city, or the rights or duties of any city officer; shall, whenever it is brought to his knowledge that any city officer or employee is guilty of neglect or misconduct in office, or that any person, firm, or corporation holding or exercising any franchise or public privilege from the city has failed to comply with any condition, or to pay any consideration mentioned in the grant of such franchise or privilege, investigate the same and report to the Mayor; shall, when directed by the Mayor, institute and prosecute in the city's interest a suit on any bond, lease, or other contract, and upon any breach or violation thereof; and shall prosecute and defend all civil actions related to or connected with any city office or interest. He shall also have charge of the



prosecution of all crimes and violations of the city ordinances, in the Court of First Instance and the municipal courts of the city, and shall discharge all the duties in respect to criminal prosecutions enjoined by law upon provincial fiscals.

"The City Fiscal shall cause to be investigated all charges of crimes and violations of ordinances and have the necessary informations or complaints prepared or made against the persons accused. He or any of his assistants may conduct such investigations by taking oral evidence of reputed witnesses, and for this purpose may issue *subpoena*, summon witnesses, to appear and testify under oath before him, and the attendance or evidence of any absent or recalcitrant witness may be enforced by application to the municipal court or the Court of First Instance. No witness summoned to testify under this section shall be under obligation to give any testimony tending to incriminate himself.

"The City Fiscal shall also cause to be investigated the cause of sudden deaths which have not been satisfactorily explained and when there is suspicion that the cause arose from the unlawful acts or omissions of other persons, or from foul play. For that purpose, he may cause autopsies to be made, and shall be entitled to demand and receive for purposes of such investigations or autopsies, subject to the rules and conditions previously established by the Secretary of Justice, the aid of the medico-legal section of the National Bureau of Investigation. In case the fiscal of the city deems it necessary to have further expert assistance for the satisfactory performance of his duties in relation with medico-legal matters or knowledge, including the giving of medical testimony in the courts of justice, he shall request the same, in the same manner and subject to the same rules and conditions as above specified, from the medico-legal officer of the said bureau who shall thereupon furnish the assistance required, in accordance with his powers and facilities. He shall at all times render such professional services as the Mayor or Board may require, and shall have such powers and perform such other duties as may be prescribed by law or ordinance."

"SEC. 38-C. *Preliminary investigation of cases cognizable by the Court of First Instance.*—In all cases brought to the Office of the City Fiscal involving crimes cognizable by the Court of First Instance, where the accused is not already in the legal custody of the police, no complaint or information shall be filed without first giving the accused a chance to be heard in a preliminary investigation, where such accused can be subpoenaed and appears before the investigating fiscal, with the right to cross-examine the complainant and his witnesses: *Provided*, That when the accused is detained, he may ask for a preliminary investigation, but he must sign a waiver of the provisions of Article One hundred twenty-five of the Revised Penal Code, as amended: *And provided, further*, That if the case has already been filed in court, he may ask for a reinvestigation thereof later on with the same right to cross-examine the witnesses against him: *Provided, finally*, That notwithstanding such waiver, the said investigation must be terminated within seven days from its inception."

SEC. 3. The first and last paragraphs of section thirty-nine of the same Act are amended to read as follows:

"SEC. 39. *The Municipal Court.*—There shall be a municipal court for the City of Manila, for which eight judges shall be appointed. An executive judge shall be chosen from among them, in such manner and at such times as the Secretary of Justice may determine. Three judges shall be designated by the Secretary of Justice to try traffic cases exclusively, such judges so designated shall hold session in such manner that there shall be one judge on duty from eight o'clock in the morning until midnight.

\* \* \* \* \*

"The judges shall have a compensation of ten thousand pesos *per annum* each."

SEC. 4. Section forty-seven of the same Act is hereby amended to read as follows:

"SEC. 47. *Persons arrested to be promptly brought before a court—Preliminary examinations in city fiscals' office, municipal court and Court of First Instance.*—Every person arrested shall, without unnecessary delay, be brought before the city fiscal, the municipal court, or the Court of First Instance for preliminary hearing, release on bail, or trial. In cases triable in the municipal court the defendant shall not be entitled as of right to a preliminary examination, except to a summary one to enable the court to fix the bail, in any case where the prosecution announces itself ready and is ready for trial within three days, not including Sundays, after the request for an examination is presented."

SEC. 5. This Act shall take effect upon its approval.

Approved, September 2, 1954.

## DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

### Executive Office

PROVINCIAL CIRCULAR  
(Unnumbered)

*September 17, 1954*

NATIONAL FUND DRIVE OF THE GIRL  
SCOUTS OF THE PHILIPPINES—NOVEM-  
BER 15 TO DECEMBER 30, 1954.

*To all Provincial Governors and City Mayors:*

Under Proclamation No. 60 issued by the President on August 31, 1954, the Girl Scouts of the Philippines has been authorized to conduct a national fund drive during the period from November 15 to December 30, 1954, in places outside of Greater Manila. The President calls upon all citizens and residents of the Philippines to assist wholeheartedly in this campaign and to give their utmost support so that the Girl Scouts of the Philippines may be assured of adequate funds with which to carry on its work of

1. Character development and citizenship training of the Filipino girls;
2. Extending Girl Scouting to thousands of other girls all over the country; and
3. Intensifying and promoting such program of activities as will be of great benefit to its members and the communities in which they live, and meeting its obligations and participating actively as a member of the World Association of Girl Guides and Girl Scouts.

In the same proclamation, the President has given authority for all the treasurers of provincial, city and municipal governments, as well as school officials and teachers, to accept from the Girl Scouts of the Philippines, fund-raising responsibilities, and urges them to give active support and leadership in their respective communities.

Provincial Governors are requested to transmit the contents hereof to all municipal mayors under their jurisdiction and give the matter wide publicity.

FRED RUIZ CASTRO  
*Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

*September 21, 1954*

EXECUTIVE ORDER NO. 58, CURRENT SERIES, DECLARING CORREGIDOR AND BATAAN NATIONAL SHRINES, OPENING THEM TO THE PUBLIC AND MAKING THEM ACCESSIBLE AS TOURIST ATTRACTIONS AND SCENES OF POPULAR PILGRIMAGES, AND CREATING A COMMISSION FOR THEIR DEVELOPMENT AND MAINTENANCE.

*To all Provincial Governors and City Mayors:*

For the information of all concerned, there is quoted hereunder in full Executive Order No. 58, with the request that the same be given the widest publicity possible:

"Pursuant to the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby order:

"1. All battlefield areas in Corregidor Island and Bataan province are hereby declared National Shrines, and, except such portions as may be temporarily needed for the storage of ammunition or deemed absolutely essential for safeguarding the national security, are opened to the public, accessible as tourist resorts and attractions, as scenes of popular pilgrimages and as recreational centers.

"2. A Corregidor-Bataan National Shrines Commission is hereby created to lay out plans for the conservation and development of said National Shrines with a view to glorifying the memory and scenes of Philippine-American resistance to aggression and to inspiring the nation as well as the rest of the free world into an unremitting defense of democracy and freedom throughout the ages.

"3. The Commission shall be composed of the Secretary of National Defense, as Chairman, the Secretary of Agriculture and Natural Resources and the Secretary of Commerce and Industry, as Vice-Chairmen, the Secretary of Public Works and Communications, the Chief of Staff of the Armed Forces of the Philippines, the Civil Aeronautics Administrator, the President of the Philippine Association, the President of the Philippine Tourist and Travel Association, the Pres-

ident of the USAFFE Veterans Legion, the Supreme Councilor of the Defenders of Bataan and Corregidor and the Chairman of the Historical Markers Committee, as members.

"4. The Commission shall immediately proceed to determine the historic areas to be preserved, developed and beautified for the purposes of this order, establish the boundaries thereof and mark them out properly. Within 30 days from the issuance of this Order, the Chief of Staff of the Armed Forces of the Philippines shall have marked out the areas in the Corregidor-Bataan battlefields to be reserved exclusively for temporary military uses, at the same time taking immediate steps to remove military stores and other dangerous objects, especially unexploded mines, bombs and shells along the road leading to or within the historic sites.

"5. The Commission shall conduct studies and prepare a general program for the development of national parks embracing all the historic areas and recommend to the President a plan for appropriate memorials or monuments wherever they are deemed desirable, taking into account the topography, vegetation and historical background of the places selected for the purpose.

"6. The Commission shall also immediately take steps towards the reconditioning of the air-strip in Corregidor and the construction of another at a convenient site in Bataan as well as the construction of suitable rest-houses for tourists and visitors in convenient locations in both places. For rest-house purposes, preference shall be given to the reconstruction and restoration to as nearly like the original as possible of the cottage occupied by General MacArthur in Corregidor and of any building in Bataan which has historic background connected with the last war.

"7. The Secretary of Public Works and Communications, the Armed Forces of the Philippines and the Civil Aeronautics Administration are hereby directed to give priority to these improvements and to make available for their immediate realization such funds as they may be in a position to dispose of out of their respective current appropriations for similar projects.

"8. The Commission may cooperate with the U. S. Bataan-Corregidor Memorial Commission and, if it so deems proper, endeavor to bring about an integration of the plans of both bodies into a common project.

"9. The Commission may call on any department, bureau, office, agency or instrumentality of the government for such assistance as it may need in the preparation and execution of its plans or in the maintenance of the services to be established.

"10. All executive orders, administrative orders and proclamations or parts thereof inconsistent

with any of the provisions and purposes of this Order are hereby repealed or modified accordingly.

"11. This Order shall take effect immediately.

"Done in the City of Manila, this 16th day of August, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth."

ENRIQUE C. QUEMA

*Assistant Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

*September 22, 1954*

SAFETY AND ACCIDENT PREVENTION WEEK  
THIS YEAR—CELEBRATION OF

*To all Provincial Governors and City Mayors:*

The third week of November of every year has been declared as Safety and Accident Prevention Week under Proclamation No. 32, dated May 28, 1954, copy of which has already been furnished that province/city. In the same Proclamation, the President has designated the Department of Labor to take charge of, and coordinate, all activities in the celebration of the Week, and said Department has mapped out a program for this year. It is, therefore, enjoined that all city, provincial and municipal officials lend their full cooperation for the complete success of the drive.

The program and suggested activities in connection with the celebration will be furnished the provinces and cities directly by the Department of Labor.

Provincial Governors are requested to transmit the contents hereof to all municipal mayors under their jurisdiction for their information, guidance and compliance.

FRED RUIZ CASTRO

*Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

*October 2, 1954*

APPOINTMENT OF LOCAL OFFICIALS AND  
EMPLOYEES AS AGENTS OF THE MOTOR  
VEHICLES OFFICE, REGULATIONS GOV-  
ERNING—

*To all Provincial Governors and Mayors:*

For the information, guidance and observance of all concerned, there is quoted hereunder Administrative Order No. 1, dated May 24, 1954, of the

Department of Public Works and Communications, on the subject: "Appointment of Honorary deputy or agent of the Chief of the Motor Vehicles Office", to wit:

"Under the provisions of section 4(d) of the Motor Vehicle Law, Act 3992, as amended, the following regulations are hereby adopted governing the appointments of deputy or agent of the Chief of the Motor Vehicles Office.

#### "A. DEPUTY

"Excepting officials of the Department of Public Works and Communications, District Engineers, Chief Traffic Officers of the Philippine Constabulary, Provincial Supervisors and Motor Vehicle Registrars, who may be designated as such, shall have the following qualifications:

- "1. He must be a Filipino citizen;
- "2. He must be at least 30 years of age;
- "3. He must be of sound physical condition;
- "4. He must at least be a college graduate or its equivalent;
- "5. He must hold a responsible position under the National Government with a salary of not less than ₱4,200 per annum and his office must have, more or less, direct relation in the enforcement of the Motor Vehicle Law and the Traffic Rules and Regulations.

#### "B. AGENT

"Agent of the Chief of the Motor Vehicles Office, who may be designated as such, shall have the following qualifications:

- "1. He must be a Filipino citizen;
- "2. He must be at least 25 years of age;
- "3. He must be physically able and of good moral character; and
- "4. He must at least be a high school graduate; and if employed under the National Government or serving under local governments, either by appointment or by election, he must have a salary of at least ₱1,800 per annum.

"The term 'National Government' includes all the Executive, Judicial and Legislative Departments including the Bureaus and Offices under them and government-owned or controlled corporations. The term 'local government' includes provincial, city, municipal and municipal district governments.

"Such deputies of the Chief of the Motor Vehicles Office, who have been acting as such heretofore before the cancellation of their appointments under Department Order No. 93 dated May 26, 1952, and who possess the qualifications above prescribed, as

are recommended by the Director or Chief of the Bureau or Office, or by the Manager of Government Corporation where they are employed and the Department Head concerned, or by the corresponding head of the legislative branch of the service, may be reappointed as such deputies.

"Such agents of the Chief of the Motor Vehicles Office, who are in the government service, who have been acting as such before the cancellation of their appointments under Department Order No. 93 dated May 26, 1952, who possess the qualifications above prescribed, and who were found helpful in the enforcement of the Motor Vehicle Law, as are recommended by the Director or Chief of Bureau or Office, or by the Manager of Government Corporations where they are employed and by the Department Head concerned, or by the corresponding head of the legislative branch of the service, may be reappointed; likewise, such agents who are members or officers of reputable civic, business and professional organizations, who possess the qualifications above described, and who have been found helpful in the enforcement of the Motor Vehicle Law, as are recommended by the governing board of said reputable civic, business and professional organizations, which are interested in the efficient enforcement of the Motor Vehicle Law and the Traffic Rules and Regulations, may be reappointed as such agents.

"Hereafter, appointed as agents may be extended only to those who possess the qualifications above prescribed and who have passed an appropriate examination to be given by the Motor Vehicles Office concerning the enforcement of the Motor Vehicle Law, as amended, the Traffic Rules and Regulations, and violations thereof and penalties therefor and the duties of agents. The examination may be conducted once a year in Manila on such date as may be determined and whenever the Chief of the Motor Vehicles Office deems it expedient to secure necessary assistance in the enforcement of the Motor Vehicle Law.

"Constabulary and city or municipal police officers, not lower than the rank of sergeant vested with authority under section 4(j) of Act 3992, as amended, to carry out the police provisions of the Motor Vehicle Law within their respective jurisdictions, may be issued identification cards and badges without prior examination.

"All appointments issued heretofore are hereby automatically cancelled and revoked, except those as may be recommended for reappointment in accordance with paragraphs 5 and 6 of page 2 hereof.

"Department Orders Nos. 44 dated October 26, 1948, and 93 dated May 26, 1952, and section 53, article XV of Administrative Order No. 1 dated September 1, 1951, and all other orders, rules and regulations regarding the appointment of deputies or agents of the Chief of the Motor Vehicles Office

that are in conflict herewith, are hereby superseded and revoked."

Provincial Governor and City Mayors will please transmit the contents hereof to all other local officials concerned in their respective jurisdictions.

FRED RUIZ CASTRO  
*Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

October 2, 1954

STATUS AND ACTIVITIES OF THE JAPANESE WAR NOTES CLAIMANTS ASSOCIATION OF THE PHILIPPINES, INC. (JAPWANCAP), INFORMATION REGARDING—

*To all Provincial Governors and City Mayors:*

For the information and guidance of all concerned, there is quoted hereunder two 2nd indorsements dated August 30 and September 13, 1954, of the Department of Foreign Affairs and the Securities and Exchange Commission, respectively, on the status and activities of the Japanese War Notes Claimants Association of the Philippines, Inc. (JAPWANCAP), to wit:

"2nd Indorsement, Manila, August 30, 1954. Respectfully returned to the Honorable, the Executive Secretary, Malacañang, Manila.

"The Japanese War Notes, Claimants Association of the Philippines, Inc. is a corporation duly registered with the Securities and Exchange Commission. However, there being no agreement yet on reparations and the disposition of whatever reparations payment that may be collected from Japan being a matter that only Congress can decide, this Department is of the view that the activities of the association are prematurely speculative and immediate steps should therefore be taken to stop said association from spreading false propaganda claims to the public."

"2nd Indorsement, September 13, 1954. Respectfully returned to the Office of the President, Malacañang, Manila, with the information that the Japanese War Notes Claimants of the Philippines, Inc. (JAPWANCAP), was registered with this Commission on January 8, 1952, as a non-stock corporation. However, this Commission has not authorized it, or for that matter, any corporation, firm or association to register claims for the redemption or payment of the Japanese war notes or civilian casualties during the last war, and collect fees therefor."

Provincial Governors and City Mayors are requested to give this matter the widest publicity possible.

ENRIQUE C. QUEMA  
*Assistant Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

October 5, 1954

NORM OF CONDUCT TO BE OBSERVED BY PEACE OFFICERS DURING STRIKES

*To all Provincial Governors and City Mayors:*

For the information and guidance of all concerned, we are quoting hereunder, excerpts from the letter dated April 17, 1954 of the Acting Secretary of Labor, on the proper norm of conduct to be observed by peace officers during strikes:

"1. In all strikes, labor has the right to picket, as management has the right to resort to all legal means to continue in business. Peace officers should, therefore, observe peace and order during strikes, so that neither labor nor management shall have cause for complaint. In this connection, peace officers should be enjoined not to abet or interfere with any legal act of labor and management in the furtherance of their respective interests in the course of the strike.

"2. Picketing guaranteed by the freedom of speech clause of the constitution is limited to peaceful persuasion, thereby removing from its protection the use of violence, threat, intimidation or misrepresentation, of the use of such numbers of picketeers as to prevent ingress to or ingress from the picketed establishment. No measure of distance from the picketed establishment is prescribed by law. Peace officers make arrests only when picketing is conducted in violation of law. Otherwise, peaceful picketing cannot be enjoined.

"3. During strikes passions run high on the part of both labor and management. Peace officers should be enjoined not only to observe complete impartiality in the maintenance of peace and order, but also to avoid doing any act which might be interpreted as favoring either labor or management during strikes. In other words, they should not lend their services to either labor or management."

Provincial Governors and City Mayors are hereby requested to transmit the contents of this circular to all peace officers within their respective jurisdictions, for compliance.

FRED RUIZ CASTRO  
*Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

October 8, 1954

PUBLIC ADMINISTRATION WEEK—LAST WEEK OF OCTOBER, 1954

*To all Provincial Governors and City Mayors:*

For your information and guidance, there is quoted hereunder Proclamation No. 75 declaring



the last week of October, 1954, as Public Administration Week:

"WHEREAS, one of the principal and immediate objectives of this administration is to achieve efficiency in the public service; and

"WHEREAS, in order to attain this objective, it is necessary to focus national attention to the problem by designating a period during which all the officials and employees of the Republic of the Philippines in particular and the people in general may devote their time, thought and energies to helping in the solution of said problem;

"NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the last week of October, 1954, as Public Administrative Week and designate the Executive Secretary to take charge of, and coordinate, all activities in the celebration of said week.

"I hereby enjoin all offices in the national, provincial, city and municipal governments, as well as all universities, colleges and schools throughout the country to participate actively in the celebration by holding practical projects, programs, demonstrations or similar activities with efficient public administration as the theme.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

"Done in the City of Manila, this 30th day of September, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines the ninth."

It is requested that all offices concerned be urged to participate actively in the celebration of the Week by holding practical projects, programs, demonstrations or similar activities with efficient public administration as the theme.

It is urged that the contents hereof be transmitted to all the local officials under your jurisdiction for their information and guidance.

ENRIQUE C. QUEMA  
*Assistant Executive Secretary*

PROVINCIAL CIRCULAR  
(Unnumbered)

October 11, 1954

MUNICIPAL SHARE UNDER REPUBLIC ACT  
NO. 784, PAYMENT OF—

To all Provincial Governors:

In connection with the Unnumbered Provincial Circular of this Office, dated January 25 and

August 12, 1954, and in order to coordinate action on claims for compensation under Republic Act No. 784 by the National and municipal governments, the municipality concerned is requested to defer the payment of its share corresponding to one-half of the benefits bestowed by said Act until after the claim for the National share is decided by this Office of which decision the municipality shall be duly advised. Payment of the municipal share should therefore be withheld until after the receipt of advice of the approval by this Office of the claim corresponding to the National share together with a copy of the designation of the next of kin in the case of death issued by the General Auditing Office to support said payment.

The contents hereof should be transmitted to all municipal mayors under your jurisdiction for their information and guidance.

FRED RUIZ CASTRO  
*Executive Secretary*

## Department of Finance

### BUREAU OF INTERNAL REVENUE

REVENUE REGULATIONS No. V-8-A

July 10, 1954

REVISION OF THE RATES OF WITHHOLDING TAX ON WAGES EMBODIED IN REVENUE REGULATIONS NO. V-8 AS AFFECTED BY REPUBLIC ACT NO. 1094.

*All Internal Revenue Officers and Others Concerned:*

SECTION 1. In view of the passage of Republic Act No. 1094 which provides the same income brackets and tax rates as those provided for in section 21 of Commonwealth Act No. 466, as amended by Republic Act No. 590, except the income bracket from ₱6,000 to ₱10,000 and the rates corresponding thereto, the withholding tax tables embodied in Revenue Regulations No. V-8 will be in force and in effect with the exception of the tables attached hereto which shall supersede the corresponding tables pertaining to the wage brackets provided for the different payroll periods covered by these new tables.

SEC. 2. These regulations shall take effect on January 1, 1954.

JAIME HERNANDEZ  
*Secretary of Finance*

Recommended by:

SILVERIO BLAQUERA  
*Deputy Collector of Internal Revenue*

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
MANILA

October 23, 1954

**Subject: COLLECTION AT SOURCE OF INCOME TAX ON WAGES**

**REVENUE REGULATIONS NO. V-8-A**

*To all internal-revenue officers and others concerned:*

SECTION 1. *Scope.*—Pursuant to the provisions of section 388 of the National Internal Revenue Code and Article 2(d) of Supplement A to Title II, of the same Code, the following regulations are promulgated relative to the collection at source of income tax on wages paid on or after January 1, 1954. The withholding of the tax on wages (commonly referred to as pay-as-you-go or pay-as-you-earn) is a method of collecting the income tax currently upon the receipt of the income. It applies to all individuals deriving income from wages. The employer is constituted as the withholding agent.

(The provisions appearing below are reproduced from Supplement A to Title II of the National Internal Revenue Code.)

**SUPPLEMENT A—WITHHOLDING ON WAGES**

ARTICLE 1. *Definitions.*—As used in this supplement:

(a) *Wages.*—The term “wages” means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—

- (1) for agricultural labor paid entirely in products of the farm where the labor is performed, or
- (2) for domestic service in a private home, or
- (3) for casual labor not in the course of the employer's trade or business, or
- (4) for services by a citizen or resident of the Philippines for a foreign government or an international organization.

If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than thirty-one consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

SEC. 2. *Wages—(a) In general.*—The term “wages” means all remuneration for services performed by an employee for his employer unless specifically excepted under Article 1(a) of Supplement A to Title II of the National Internal Revenue Code.

The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, pensions, and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employee for his employer.

The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus it may be paid on the basis of piecework, or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

Wages may be paid in money or in some medium other than money, as, for example, stocks, bonds, or other forms of property. If services are paid for in a medium other than money, the fair market value of the thing taken in payment is the amount to be included as wages subject to withholding. If the services were rendered at a stipulated price, in the absence of evidence to the contrary such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employees its own stock as remuneration for services rendered by the employee, the amount of such remuneration is the fair market value of the stock at the time of the transfer. If a person receives as remuneration for services rendered a salary and in addition thereto living quarters or meals, the value to such person of the quarters and meals so furnished shall be added to the remuneration otherwise paid for the purpose of determining the amount of wages subject to withholding. If, however, living quarters or meals are furnished to an employee for the convenience of the employer, the value thereof need not be included as wages subject to withholding.

Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as wages subject to withholding if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees.

Where wages are paid in property other than money, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment to the Collector of Internal Revenue.

Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer, are not subject to withholding.

Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

(b) *Pensions and retired pay.*—In general, pensions and retired pay are wages subject to withholding. So-called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages.

(c) *Traveling and other expenses.*—Amounts paid specifically—either as advances or reimbursements—for traveling or other *bona fide* ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to withholding. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expenses allowances are combined in a single payment.

(d) *Vacation allowances.*—Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(e) *Dismissal payments.*—Any payment made by an employer to an employee on account of dismissal, that is, involuntary separation from the service of the employer, constitutes wages regardless of whether the employer is legally bound by contract, statute, or otherwise to make such payment.

(f) *Deductions by employer from wages of employee.*—The amount of any tax which is required by law to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages and is deemed to be paid to the employee as wages at the time the deduction is made. It is immaterial whether the

(g) *Remuneration for services as employee of nonresident alien individual or foreign entity.*—The term “wages” includes remuneration for services performed by a citizen or resident of the Philippines, as an employee of a nonresident alien individual, foreign partnership or foreign corporation whether or not such alien individual or foreign entity is engaged in trade or business within the Philippines. Any person, paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the Philippines is subject to all provisions of law and regulations applicable with respect to an employer.

SEC. 3. *Exclusions from wages.*—(a) *Fees paid to a public official.*—Authorized fees paid to public officials such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are excepted from the definition of the term “wages” and hence are not subject to withholding. However, salaries paid such officials by the Government, or government agency or instrumentality, are subject to withholding.

(b) *Remuneration paid for agricultural labor.*—(1) *In general.*—The term “wages” does not include remuneration for services which constitute agricultural labor and paid entirely in products of the farm where the labor is performed.

In general, however, the term “agricultural labor” does not include services performed in connection with forestry, lumbering or landscaping.

(2) *Services constituting agricultural labor.*—Remuneration paid entirely in products of the farm where the labor is performed for services performed on a farm by an employee of any person in connection with any of the following activities is excepted as remuneration for agricultural labor:

- (i) The cultivation of the soil;
  - (ii) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, or wildlife; or
  - (iii) The raising or harvesting of any other agricultural or horticultural commodity.
- The term “farm” as used in this subsection includes stock, dairy, poultry, fruit, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities.

(3) The remuneration paid entirely in products of the farm where labor is performed for the following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms is excepted as remuneration for agricultural labor, provided the major part of such services is performed on a farm:

- (i) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any such farms or its tools or equipment; or
- (ii) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane or typhoon.

The services described in (i) above may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semi-skilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged. Since the services described in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to remuneration paid for services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(4) Remuneration paid entirely in products of the farm where labor is performed for services performed by an employee in the employ of any person in connection with any of the following operations is excepted as remuneration for agricultural labor without regard to the place where such services are performed:

- (iv) The operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying or storing water for farming purposes;
- (v) The production or harvesting of crude gum from a living tree or the processing of such crude gum into gum spirits of turpentine and gum resin, provided such processing is carried on by the original producer of such crude gum.

(5) Remuneration paid entirely in products of the farm where labor is performed for services performed by an employee in the employ of a farmer or a farmers' co-operative organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity, produced by such farmer or farmer-members of such organization or group, is excepted as remuneration for agricultural labor. Services performed by employees of such farmer or farmers' organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to carrier for transportation to market, of commodities produced by persons other than such farmer or members of such farmers' organization or group are not performed "as an incident to ordinary farming operations."

All payments made in cash or other forms other than products of the farm where labor is performed, for services constituting agricultural labor as explained above, are not within the exception.

(c) *Remuneration for private service in a private home.*—Remuneration paid for services of a household nature performed by an employee in or about the private home of the person by whom he is employed is excepted from the term "wages."

A private home is the fixed place of abode of an individual or family.

If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the remuneration paid for services performed therein is not excepted.

In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, gardeners, chauffeurs of automobiles for family use.

The remuneration paid for the services above enumerated is not within the exception if performed in or about rooming or lodgings, boardinghouses, clubs, hotels, hospitals, or commercial offices or establishments.

Remuneration paid for services performed as a private secretary, even though performed in the employer's home, is not within the exception.

(d) *Remuneration for casual labor not in the course of employer's trade or business.*—The term "casual labor" includes labor which is occasional, incidental or irregular.

The expression "not in the course of the employer's trade or business" includes labor that does not promote or advance the trade or business of the employer.

Thus, remuneration paid for labor which is occasional, incidental or irregular, and does not promote or advance the employer's trade or business, is excepted.

Example: A's business is that of operating a sawmill. He employs B, a carpenter, at an hourly wage to repair his home. B works irregularly and spends the greater part of two days in completing the work. Since B's labor is casual and is not in the course of A's trade or business, the remuneration paid for such services is excepted.

The remuneration paid for casual labor, that is, labor which is occasional, incidental, or irregular, but which is in the course of the employer's trade or business, does not come within the above exception.

Example (1).—C's business is that of operating a sawmill. He employs

D for two hours at an hourly wage to remove sawdust from his mill. D's labor



Example (2).—E is engaged in the business of operating a department store. He employs additional clerks for short periods. While the services of the clerks may be casual, they are in the course of the employer's trade or business and, therefore, the remuneration paid for such services is not excepted.

Remuneration paid for casual labor performed for a corporation does not come within this exception.

(e) *Compensation for services by a citizen or resident of the Philippines for a foreign government or an international organization.*—Remuneration paid for services performed as an employee of a foreign government is excepted. The exception includes not only remuneration paid for services performed by ambassadors, ministers, and other diplomatic officers and employees but also remuneration paid for services performed as consular or other officer or employee of a foreign government or as a non-diplomatic representative of such government. Compensation paid for services in the United States government offices, military establishments and naval bases which under our Income Tax Law are not subject to income tax are also excepted from the withholding provisions.

ART. 1(b) *Payroll period.*—The term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, bi-weekly, semi-monthly, monthly, quarterly, semi-annual or annual period.

SEC. 4. *Payroll period.*—The term "payroll period" means the period of service for which a payment of wages is ordinarily made to an employee by his employer. It is immaterial that the wages are not always paid at regular intervals. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but if for some reason the employee in a given week receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the payroll period is still the calendar week; or if, instead, that employee is sent on a 3-week trip by his employer and receives at the end of the trip a single wage payment for 3 weeks services, the payroll period is still the calendar week, and the wage payment shall be treated as though it were 3 separate weekly payments.

For the purpose of determination of the tax, an employee can have but one payroll period with respect to wages paid by any one employer. Thus, if an employee is paid a regular wage for a weekly payroll and in addition thereto is paid supplemental wages (for example, bonuses) determined with respect to a different period, the payroll period is the weekly payroll period.

ART. 1(c) *Employee.*—The term "employee" refers to any individual who is the recipient of wages and includes an officer, employee, or elected official of the Government of the Philippines or any political subdivision, agency or instrumentality thereof. The term "employee" also includes an officer of a corporation.

SEC. 5. *Employee.*—The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term specifically includes officers and employees, whether elected or appointed, of the Government of the Philippines, or any political subdivision thereof or any agency or instrumentality of any one or more of the foregoing.

Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be



cient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are furnishing the tools and furnishing of a place to work, to the individual who perform the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is not an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, sub-contractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus if such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent, or independent contractor.

The measurement, method or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation but a director as such is not. If, however, a director performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors, he may or may not be an employee of the corporation. Whether or not such services are performed as an employee of the corporation must be determined upon the basis of the facts in the particular case.

Although an individual may be an employee under the statute, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of Article 1(a).

ART. 1(d) *Employer*.—The term “employer” means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—

(1) If the person for whom the individual performs or performed any services does not have control of the payment of the wages for such services, the term “employer” [except for the purposes of sub-article (a)] means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a non-resident alien individual, foreign partnership or foreign corporation, not engaged in the trade or business within the Philippines, the term “employer” [except for the purposes of sub-article (a)] means such person.

SEC. 6. The term employer means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.

It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer may exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an “employer.”

If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term “employer” means (except for the purposes of the definition of wages) the person having such control. For example, where wages, such as certain types of pensions or retired pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the “employer.”

It is the basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax and furnishing the statements required under this Title. The foregoing two special definitions of the term "employer" are designed solely to meet unusual situations. They are not intended as a departure from the basic purpose.

As a matter of business administration, certain of the mechanical details of the withholding process may be handled by representatives of the employer. Thus, in the case of a corporate employer having branch offices, the branches manager or other representative may actually, as a matter of internal administration, withhold the tax or prepare the statements required under the law. Nevertheless, the legal responsibility for withholding, paying, and returning the tax and furnishing such statements rests with the corporate employer.

An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

The term "employer" embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as charitable organizations, clubs, social organizations and societies, as well as the Government of the Philippines, including its agencies, instrumentalities, and political subdivisions.

ART. 2. *Income Tax Collected at Source.*—(a) *Requirement of withholding.*—Every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with a withholding table to be prepared by the Secretary of Finance.

SEC. 7. *Employer to withhold.*—(v) Every employer who pays wages to an employee must withhold from such wages paid, an amount computed in accordance with the following tables:

## DAILY WITHHOLDING TABLE OR MISCELLANEOUS WITHHOLDING TABLE

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS A DAILY PAYROLL PERIOD  
OR A MISCELLANEOUS PAYROLL PERIOD

And the wages divided by the number of days in such periods are—		And the personal exemption claimed is—													
At least	But less than	0 (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D	
The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period—															
P0	P6.00	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0
6.00	6.30	.35	.05	0	0	0	0	0	0	0	0	0	0	0	0
6.30	6.60	.35	.05	0	0	0	0	0	0	0	0	0	0	0	0
6.60	6.90	.35	.05	0	0	0	0	0	0	0	0	0	0	0	0
6.90	7.10	.40	.05	0	0	0	0	0	0	0	0	0	0	0	0
7.10	7.40	.40	.10	0	0	0	0	0	0	0	0	0	0	0	0
7.40	7.70	.45	.10	0	0	0	0	0	0	0	0	0	0	0	0
7.70	8.00	.45	.10	0	0	0	0	0	0	0	0	0	0	0	0
8.00	8.30	.50	.10	0	0	0	0	0	0	0	0	0	0	0	0
8.30	8.60	.50	.15	0	0	0	0	0	0	0	0	0	0	0	0
8.60	8.90	.55	.15	0	0	0	0	0	0	0	0	0	0	0	0
8.90	9.10	.55	.15	0	0	0	0	0	0	0	0	0	0	0	0
9.10	9.40	.60	.15	0	0	0	0	0	0	0	0	0	0	0	0
9.40	9.70	.60	.20	0	0	0	0	0	0	0	0	0	0	0	0
9.70	10.00	.60	.20	.05	0	0	0	0	0	0	0	0	0	0	0
10.00	10.30	.65	.20	.05	0	0	0	0	0	0	0	0	0	0	0
10.30	10.60	.65	.20	.05	0	0	0	0	0	0	0	0	0	0	0
10.60	10.90	.70	.25	.05	0	0	0	0	0	0	0	0	0	0	0
10.90	11.10	.70	.25	.10	0	0	0	0	0	0	0	0	0	0	0
11.10	11.40	.75	.25	.10	0	0	0	0	0	0	0	0	0	0	0
11.40	11.70	.80	.25	.10	.05	0	0	0	0	0	0	0	0	0	0
11.70	12.00	.80	.30	.10	.05	0	0	0	0	0	0	0	0	0	0
12.00	12.30	.85	.30	.15	.05	0	0	0	0	0	0	0	0	0	0
12.30	12.60	.90	.35	.15	.05	0	0	0	0	0	0	0	0	0	0
12.60	12.90	.90	.35	.15	.10	0	0	0	0	0	0	0	0	0	0
12.90	13.40	.95	.40	.20	.10	0	0	0	0	0	0	0	0	0	0
13.40	14.00	1.05	.45	.20	.10	.05	0	0	0	0	0	0	0	0	0
14.00	14.60	1.10	.45	.25	.15	.05	0	0	0	0	0	0	0	0	0
14.60	15.10	1.20	.50	.25	.15	.10	0	0	0	0	0	0	0	0	0
15.10	15.70	1.25	.55	.30	.20	.10	.05	0	0	0	0	0	0	0	0
15.70	16.30	1.30	.60	.35	.25	.15	.05	0	0	0	0	0	0	0	0
16.30	16.90	1.40	.65	.35	.25	.15	.10	0	0	0	0	0	0	0	0
16.90	17.40	1.50	.65	.40	.30	.20	.10	.05	0	0	0	0	0	0	0
17.40	18.00	1.55	.70	.45	.30	.20	.15	.05	0	0	0	0	0	0	0
18.00	18.60	1.65	.80	.50	.35	.25	.15	.10	0	0	0	0	0	0	0
18.60	19.10	1.75	.85	.55	.40	.25	.20	.10	0	0	0	0	0	0	0
19.10	19.70	1.85	.90	.55	.45	.30	.20	.15	.05	0	0	0	0	0	0
19.70	20.30	1.95	.95	.60	.50	.35	.25	.15	.10	0	0	0	0	0	0
20.30	20.90	2.05	1.00	.65	.55	.40	.25	.20	.10	0	0	0	0	0	0
20.90	21.40	2.10	1.10	.70	.55	.45	.30	.20	.15	.05	0	0	0	0	0
21.40	22.90	2.30	1.20	.80	.65	.50	.35	.25	.15	.10	0	0	0	0	0
22.90	24.30	2.60	1.35	.95	.75	.60	.50	.35	.25	.15	.05	0	0	0	0
24.30	25.70	2.85	1.55	1.10	.90	.70	.60	.45	.30	.20	.15	.05	0	0	0
25.70	27.10	3.15	1.75	1.25	1.05	.85	.70	.55	.40	.30	.20	.10	.05	0	0
27.10	28.60	3.45	1.95	1.45	1.20	1.00	.85	.65	.55	.40	.25	.20	.10	.05	0
28.60	30.00	3.80	2.20	1.65	1.40	1.20	1.00	.80	.65	.50	.40	.25	.15	.10	.05
30.00	31.40	4.15	2.45	1.90	1.65	1.35	1.15	.95	.75	.60	.50	.35	.25	.15	.10
31.40	32.90	4.45	2.75	2.15	1.85	1.60	1.35	1.15	.95	.75	.60	.45	.35	.25	.15
32.90	34.30	4.80	3.05	2.40	2.10	1.85	1.55	1.30	1.10	.90	.70	.60	.45	.35	.25
34.30	35.70	5.15	3.35	2.65	2.35	2.05	1.80	1.55	1.30	1.10	.90	.70	.55	.45	.35

Legend:

S = Single

**DAILY WITHHOLDING TABLE OR MISCELLANEOUS WITHHOLDING TABLE—Ctd.**

**IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS A DAILY PAYROLL PERIOD  
OR A MISCELLANEOUS PAYROLL PERIOD**

And the wages divided by the number of days in such periods are—		And the personal exemption claimed is—												
At least	But less than	(0) (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 D or more
The amount of tax to be withheld shall be—														
35.70	37.10	5.50	3.65	2.95	2.60	2.30	2.00	1.75	1.50	1.25	1.05	.85	.70	.55
37.10	38.60	5.85	4.00	3.25	2.90	2.60	2.25	2.00	1.75	1.45	1.25	1.05	.85	.65
38.60	40.00	6.20	4.35	3.55	3.20	2.85	2.55	2.20	1.95	1.70	1.45	1.20	1.00	.80
40.00	41.40	6.55	4.70	3.90	3.50	3.15	2.80	2.50	2.20	1.90	1.65	1.40	1.20	1.00
41.40	42.90	6.85	5.05	4.25	3.85	3.45	3.10	2.80	2.45	2.15	1.90	1.65	1.35	1.15
42.90	45.70	7.40	5.55	4.75	4.35	3.95	3.55	3.20	2.90	2.55	2.25	1.95	1.70	1.45
45.70	48.60	8.05	6.25	5.45	5.05	4.65	4.25	3.85	3.45	3.15	2.80	2.45	2.15	1.90
48.60	51.40	8.75	6.90	6.10	5.75	5.35	4.95	4.55	4.15	3.75	3.35	3.05	2.70	2.40
51.40	54.30	9.45	7.60	6.80	6.40	6.00	5.60	5.20	4.85	4.45	3.75	3.65	3.30	2.95
54.30	57.10	10.20	8.30	7.50	7.10	6.70	6.30	5.90	5.50	5.10	4.70	4.35	3.95	3.55
57.10	60.00	11.05	8.95	8.20	7.80	7.40	7.00	6.60	6.20	5.80	5.40	5.00	4.60	4.20
EXCESS OVER P60 MULTIPLIED BY THE RATE GIVEN BELOW—														
60.00 and over		30%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%
		PLUS—												
		11.45	9.30	8.50	8.15	7.75	7.35	6.95	6.55	6.15	5.75	5.35	4.95	4.55

**Legend:**

S = Single

M = Married

HF = Head of Family

D = Dependents

(3), (5), (6), etc., refer to exemption units—one unit equals P600.

## WEEKLY WITHHOLDING TABLE

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS WEEKLY

And the wages are—		And the personal exemption claimed is—													
At least	But less than	0 (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w-10 or more D	
The amount of tax to be withheld shall be—															
P 0	P40	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0
40	42	2.15	.10	0	0	0	0	0	0	0	0	0	0	0	0
42	44	2.30	.20	0	0	0	0	0	0	0	0	0	0	0	0
44	46	2.45	.30	0	0	0	0	0	0	0	0	0	0	0	0
46	48	2.60	.40	0	0	0	0	0	0	0	0	0	0	0	0
48	50	2.75	.45	0	0	0	0	0	0	0	0	0	0	0	0
50	52	2.95	.55	0	0	0	0	0	0	0	0	0	0	0	0
52	54	3.10	.65	0	0	0	0	0	0	0	0	0	0	0	0
54	56	3.25	.75	0	0	0	0	0	0	0	0	0	0	0	0
56	58	3.40	.85	0	0	0	0	0	0	0	0	0	0	0	0
58	60	3.55	.90	0	0	0	0	0	0	0	0	0	0	0	0
60	62	3.75	1.00	0	0	0	0	0	0	0	0	0	0	0	0
62	64	3.90	1.10	0	0	0	0	0	0	0	0	0	0	0	0
64	66	4.05	1.20	0	0	0	0	0	0	0	0	0	0	0	0
66	68	4.20	1.30	.15	0	0	0	0	0	0	0	0	0	0	0
68	70	4.35	1.35	.20	0	0	0	0	0	0	0	0	0	0	0
70	72	4.55	1.45	.30	0	0	0	0	0	0	0	0	0	0	0
72	74	4.70	1.55	.40	0	0	0	0	0	0	0	0	0	0	0
74	76	4.85	1.65	.50	0	0	0	0	0	0	0	0	0	0	0
76	78	5.00	1.75	.60	0	0	0	0	0	0	0	0	0	0	0
78	80	5.25	1.80	.65	0	0	0	0	0	0	0	0	0	0	0
80	82	5.50	1.90	.75	.20	0	0	0	0	0	0	0	0	0	0
82	84	5.75	2.05	.85	.25	0	0	0	0	0	0	0	0	0	0
84	86	5.95	2.20	.95	.35	0	0	0	0	0	0	0	0	0	0
86	88	6.20	2.35	1.05	.45	0	0	0	0	0	0	0	0	0	0
88	90	6.45	2.50	1.10	.55	0	0	0	0	0	0	0	0	0	0
90	94	6.80	2.70	1.25	.70	.10	0	0	0	0	0	0	0	0	0
94	98	7.30	3.00	1.45	.85	.30	0	0	0	0	0	0	0	0	0
98	102	7.75	3.30	1.60	1.05	.45	0	0	0	0	0	0	0	0	0
102	106	8.25	3.55	1.80	1.20	.65	0	0	0	0	0	0	0	0	0
106	110	8.75	3.85	2.00	1.40	.80	.25	0	0	0	0	0	0	0	0
110	114	9.20	4.15	2.30	1.60	1.00	.40	0	0	0	0	0	0	0	0
114	118	9.70	4.45	2.60	1.75	1.20	.60	0	0	0	0	0	0	0	0
118	122	10.35	4.70	2.85	1.95	1.35	.80	.20	0	0	0	0	0	0	0
122	126	11.00	5.00	3.15	2.25	1.55	.95	.40	0	0	0	0	0	0	0
126	130	11.65	5.45	3.45	2.50	1.70	1.15	.55	0	0	0	0	0	0	0
130	134	12.25	5.85	3.75	2.80	1.90	1.30	.75	.15	0	0	0	0	0	0
134	138	12.90	6.30	4.00	3.10	2.20	1.50	.95	.35	0	0	0	0	0	0
138	142	13.55	6.75	4.30	3.40	2.45	1.70	1.10	.55	0	0	0	0	0	0
142	146	14.20	7.15	4.60	3.70	2.75	1.85	1.30	.70	.15	0	0	0	0	0
146	150	14.85	7.60	4.90	3.95	3.05	2.10	1.45	.90	.30	0	0	0	0	0
150	160	16.00	8.35	5.60	4.45	3.55	2.60	1.80	1.20	.65	0	0	0	0	0
160	170	18.00	9.45	6.65	5.30	4.25	3.35	2.40	1.65	1.10	.50	0	0	0	0
170	180	20.00	10.80	7.75	6.35	5.00	4.05	3.15	2.20	1.55	.95	.40	0	0	0
180	190	22.00	12.25	8.85	7.45	6.05	4.80	3.85	2.95	2.00	1.40	.85	.25	0	0
190	200	24.10	13.75	10.05	8.55	7.15	5.80	4.60	3.70	2.75	1.85	1.30	.70	.15	0
200	210	26.50	15.35	11.65	9.80	8.35	7.00	5.60	4.50	3.55	2.65	1.80	1.20	.65	0
210	220	28.90	17.25	13.25	11.40	9.55	8.20	6.80	5.40	4.35	3.45	2.50	1.70	1.15	0
220	230	31.30	19.25	14.85	13.00	11.15	9.40	8.00	6.60	5.25	4.25	3.30	2.40	1.65	0
230	240	33.70	21.25	16.60	14.60	12.75	10.90	9.20	7.80	6.45	5.05	4.10	3.20	2.25	0
240	250	36.10	23.25	18.60	16.30	14.35	12.50	10.65	9.00	7.65	6.25	4.90	4.00	3.05	0
250	260	38.50	25.60	20.60	18.30	16.00	14.10	12.25	10.40	8.85	7.45	6.05	4.80	3.85	0

Legend:

S=Single

M=Married

D=Dependents

HF=Head of Family

## WEEKLY WITHHOLDING TABLE—Continued

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS WEEKLY<sup>1</sup>—Continued

And the wages are—		And the personal exemption claimed is—												
At least	But less than	(None)	(3) S	(5) M or HF	(6) HF w-1 D	(7) HF w-2 D	(8) HF w-3 D	(9) HF w-4 D	(10) HF w-5 D	(11) HF w-6 D	(12) HF w-7 D	(13) HF w-8 D	(14) HF w-9 D	(15) HF w-10 or more D
The amount of tax to be withheld shall be—														
260	270	40.90	28.00	22.60	20.30	18.00	15.70	13.85	12.00	10.15	8.65	7.25	5.90	4.65
270	280	43.30	30.40	24.85	22.30	20.00	17.70	15.45	13.60	11.75	9.90	8.45	7.10	5.70
280	290	45.70	32.80	27.25	24.40	22.00	19.70	17.40	15.20	13.35	11.50	9.70	8.30	6.90
290	300	48.10	35.20	29.65	26.90	24.10	21.70	19.40	17.10	14.95	13.10	11.30	9.50	8.10
300	320	51.70	38.80	33.25	30.50	27.70	24.95	22.40	20.10	17.75	15.50	13.70	11.85	10.00
320	340	56.50	43.60	38.05	35.30	32.50	29.75	26.95	24.20	21.75	19.45	17.15	15.05	13.20
340	360	61.30	48.40	42.85	40.10	37.30	34.55	31.75	29.00	26.25	23.45	21.15	18.85	16.55
360	380	66.10	53.20	47.65	44.90	42.10	39.35	36.55	33.80	31.05	28.25	25.50	22.85	20.55
380	400	71.25	58.00	52.45	49.70	46.90	44.15	41.35	38.60	35.85	33.05	30.30	27.50	24.75
EXCESS OVER P400 MULTIPLIED BY THE RATE GIVEN BELOW—														
400 and over		30%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%
		PLUS—												
		74.25	60.40	54.85	52.10	49.30	46.55	43.75	41.00	38.25	35.45	32.70	29.90	27.15

## Legend:

S=Single

M=Married

D=Dependents

HF=Head of Family

(3), (5), (6), etc., refer to exemption units—one unit equals P600.



## BIWEEKLY WITHHOLDING TABLE

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS BI-WEEKLY

And the wages are—		And the personal exemption claimed is—													
At	But less	0 (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D	
The amount of tax to be withheld shall be—															
P0	P80	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0
80	84	4.25	.25	0	0	0	0	0	0	0	0	0	0	0	0
84	88	4.55	.40	0	0	0	0	0	0	0	0	0	0	0	0
88	92	4.90	.60	0	0	0	0	0	0	0	0	0	0	0	0
92	96	5.20	.75	0	0	0	0	0	0	0	0	0	0	0	0
96	100	5.55	.95	0	0	0	0	0	0	0	0	0	0	0	0
100	104	5.85	1.15	0	0	0	0	0	0	0	0	0	0	0	0
104	108	6.15	1.30	0	0	0	0	0	0	0	0	0	0	0	0
108	112	6.50	1.50	0	0	0	0	0	0	0	0	0	0	0	0
112	116	6.80	1.65	0	0	0	0	0	0	0	0	0	0	0	0
116	120	7.15	1.85	0	0	0	0	0	0	0	0	0	0	0	0
120	124	7.45	2.05	0	0	0	0	0	0	0	0	0	0	0	0
124	128	7.75	2.20	0	0	0	0	0	0	0	0	0	0	0	0
128	132	8.10	2.40	0	0	0	0	0	0	0	0	0	0	0	0
132	136	8.40	2.55	0.25	0	0	0	0	0	0	0	0	0	0	0
136	140	8.75	2.75	.45	0	0	0	0	0	0	0	0	0	0	0
140	144	9.05	2.95	.60	0	0	0	0	0	0	0	0	0	0	0
144	148	9.35	3.10	.80	0	0	0	0	0	0	0	0	0	0	0
148	152	9.70	3.30	1.00	0	0	0	0	0	0	0	0	0	0	0
152	156	10.00	3.45	1.15	0	0	0	0	0	0	0	0	0	0	0
156	160	10.50	3.65	1.35	0	0	0	0	0	0	0	0	0	0	0
160	164	11.00	3.85	1.50	.35	0	0	0	0	0	0	0	0	0	0
164	168	11.45	4.10	1.70	.55	0	0	0	0	0	0	0	0	0	0
168	172	11.95	4.40	1.90	.75	0	0	0	0	0	0	0	0	0	0
172	176	12.40	4.70	2.05	.90	0	0	0	0	0	0	0	0	0	0
176	180	12.90	4.95	2.25	1.10	0	0	0	0	0	0	0	0	0	0
180	188	13.60	5.40	2.50	1.35	.20	0	0	0	0	0	0	0	0	0
188	196	14.60	6.00	2.85	1.70	.55	0	0	0	0	0	0	0	0	0
196	204	15.55	6.55	3.25	2.10	.90	0	0	0	0	0	0	0	0	0
204	212	16.50	7.15	3.60	2.45	1.30	0	0	0	0	0	0	0	0	0
212	220	17.45	7.70	4.00	2.80	1.65	.50	0	0	0	0	0	0	0	0
220	228	18.40	8.30	4.60	3.15	2.00	.85	0	0	0	0	0	0	0	0
228	236	19.45	8.85	5.15	3.50	2.35	1.20	0	0	0	0	0	0	0	0
236	244	20.70	9.45	5.75	3.90	2.70	1.55	.40	0	0	0	0	0	0	0
244	252	22.00	10.00	6.30	4.45	3.10	1.95	.80	0	0	0	0	0	0	0
252	260	23.25	10.90	6.90	5.05	3.45	2.30	1.15	0	0	0	0	0	0	0
260	268	24.55	11.75	7.45	5.60	3.80	2.65	1.50	.35	0	0	0	0	0	0
268	276	25.85	12.60	8.05	6.20	4.35	3.00	1.85	.70	0	0	0	0	0	0
276	284	27.10	13.45	8.60	6.80	4.95	3.35	2.20	1.05	0	0	0	0	0	0
284	292	28.40	14.35	9.20	7.35	5.50	3.75	2.60	1.40	.25	0	0	0	0	0
292	300	29.65	15.20	9.75	7.95	6.10	4.25	2.95	1.80	.65	0	0	0	0	0
300	320	32.00	16.70	11.15	8.95	7.10	5.25	3.55	2.40	1.25	0	0	0	0	0
320	340	36.00	18.85	13.35	10.55	8.55	6.70	4.85	3.30	2.15	1.00	0	0	0	0
340	360	40.00	21.65	15.50	12.70	9.95	8.10	6.30	4.45	3.05	1.90	.75	0	0	0
360	380	44.00	24.50	17.65	14.90	12.10	9.55	7.70	5.85	4.00	2.80	1.65	.50	0	0
380	400	48.20	27.50	20.10	17.10	14.35	11.55	9.20	7.35	5.50	3.75	2.60	1.40	.25	0
400	420	53.00	30.70	23.30	19.60	16.75	13.95	11.20	8.95	7.10	5.25	3.60	2.40	1.25	0
420	440	57.80	34.45	26.50	22.80	19.15	16.35	13.60	10.85	8.70	6.85	5.00	3.40	2.25	0
440	460	62.60	38.45	29.70	26.00	22.30	18.75	16.00	13.25	10.45	8.45	6.60	4.75	3.25	0
460	480	67.40	42.45	33.25	29.20	25.50	21.80	18.40	15.65	12.85	10.10	8.20	6.35	4.50	0

Legend:

S = Single

M = Married

HF = Head of Family

D = Dependents

(3), (5), (6), etc., refer to exemption units—one unit equals P600.

**BIWEEKLY WITHHOLDING TABLE—Continued****IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS BI-WEEKLY—Continued**

And the wages are—		And the personal exemption claimed is—												
At least	But less than	(0) (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D
The amount of tax to be withheld shall be—														
480	500	72.20	46.45	37.25	32.60	28.70	25.00	21.30	18.05	15.25	12.50	9.80	7.95	6.10
500	520	77.00	51.15	41.25	36.60	32.00	28.20	24.50	20.85	17.65	14.90	12.10	9.55	7.70
520	540	81.80	55.95	45.25	40.60	36.00	31.40	27.70	24.05	20.35	17.30	14.50	11.75	9.30
540	560	86.60	60.75	49.70	44.60	40.00	35.40	30.90	27.25	23.55	19.85	16.90	14.15	11.40
560	580	91.40	65.55	54.50	48.75	44.00	39.40	34.75	30.45	26.75	23.05	19.35	16.55	13.80
580	600	96.20	70.35	59.30	53.75	48.20	43.40	38.75	34.15	29.95	26.25	22.55	18.95	16.20
600	640	103.40	77.55	66.50	60.95	55.40	49.90	44.75	40.15	35.55	31.05	27.35	23.65	19.95
640	680	113.00	87.15	76.10	70.55	65.00	59.50	53.95	48.40	43.55	38.90	34.30	30.05	26.35
680	720	122.60	96.75	85.70	80.15	74.60	69.10	63.55	58.00	52.45	46.90	42.30	37.70	33.10
720	760	132.20	106.35	95.30	89.75	84.20	78.70	73.15	67.60	62.05	52.50	51.00	45.70	41.10
760	800	142.45	115.95	104.90	99.35	93.80	88.30	82.75	77.20	71.65	66.10	60.60	55.05	49.50

EXCESS OVER P800 MULTIPLIED BY THE RATE GIVEN BELOW—														
800 and over	30%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%
	PLUS													
	148.45	120.75	109.70	104.15	98.60	93.10	87.55	82.00	76.45	70.90	65.40	59.85	54.30	

**Legend:**

S = Single

M = Married

HF = Head of Family

D = Dependents

(3), (5), (6), etc., refer to exemption units—one unit equals P600.

## SEMIMONTHLY WITHHOLDING TABLE

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS SEMI-MONTHLY <sup>1</sup>

And the wages are—		And the personal exemption claimed is—												
At least	But less than	(0) (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D
The amount of tax to be withheld shall be—														
P0	P84	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0
84	88	4.40	.10	0	0	0	0	0	0	0	0	0	0	0
88	92	4.70	.30	0	0	0	0	0	0	0	0	0	0	0
92	96	5.00	.50	0	0	0	0	0	0	0	0	0	0	0
96	100	5.35	.65	0	0	0	0	0	0	0	0	0	0	0
100	104	5.65	.85	0	0	0	0	0	0	0	0	0	0	0
104	108	6.00	1.00	0	0	0	0	0	0	0	0	0	0	0
108	112	6.30	1.20	0	0	0	0	0	0	0	0	0	0	0
112	116	6.60	1.40	0	0	0	0	0	0	0	0	0	0	0
116	120	6.95	1.55	0	0	0	0	0	0	0	0	0	0	0
120	124	7.25	1.75	0	0	0	0	0	0	0	0	0	0	0
124	128	7.60	1.90	0	0	0	0	0	0	0	0	0	0	0
128	132	7.90	2.10	0	0	0	0	0	0	0	0	0	0	0
132	136	8.20	2.30	0	0	0	0	0	0	0	0	0	0	0
136	140	8.55	2.45	0	0	0	0	0	0	0	0	0	0	0
140	144	8.85	2.65	.15	0	0	0	0	0	0	0	0	0	0
144	148	9.20	2.80	.30	0	0	0	0	0	0	0	0	0	0
148	152	9.50	3.00	.50	0	0	0	0	0	0	0	0	0	0
152	156	9.80	3.20	.70	0	0	0	0	0	0	0	0	0	0
156	160	10.15	3.35	.85	0	0	0	0	0	0	0	0	0	0
160	164	10.45	3.55	1.05	0	0	0	0	0	0	0	0	0	0
164	168	10.80	3.70	1.20	0	0	0	0	0	0	0	0	0	0
168	172	11.25	3.90	1.40	.15	0	0	0	0	0	0	0	0	0
172	176	11.70	4.10	1.60	.35	0	0	0	0	0	0	0	0	0
176	180	12.20	4.30	1.75	.50	0	0	0	0	0	0	0	0	0
180	184	12.65	4.60	1.95	.70	0	0	0	0	0	0	0	0	0
184	188	13.15	4.90	2.10	.85	0	0	0	0	0	0	0	0	0
188	192	13.65	5.20	2.30	1.05	0	0	0	0	0	0	0	0	0
192	196	14.10	5.45	2.50	1.25	0	0	0	0	0	0	0	0	0
196	200	14.60	5.75	2.65	1.40	.15	0	0	0	0	0	0	0	0
200	210	15.45	6.25	3.00	1.75	.50	0	0	0	0	0	0	0	0
210	220	16.65	7.00	3.45	2.20	.95	0	0	0	0	0	0	0	0
220	230	17.85	7.70	3.90	2.65	1.40	.15	0	0	0	0	0	0	0
230	240	19.05	8.40	4.40	3.10	1.85	.60	0	0	0	0	0	0	0
240	250	20.25	9.15	5.15	3.55	2.30	1.05	0	0	0	0	0	0	0
250	260	21.65	9.85	5.85	4.00	2.75	1.50	.25	0	0	0	0	0	0
260	270	23.25	10.60	6.60	4.60	3.20	1.95	.70	0	0	0	0	0	0
270	280	24.10	11.55	7.30	5.30	3.65	2.40	1.15	0	0	0	0	0	0
280	290	26.45	12.60	8.00	6.00	4.10	2.85	1.60	.35	0	0	0	0	0
290	300	28.05	13.70	8.75	6.75	4.75	3.30	2.05	.80	0	0	0	0	0
300	320	30.45	15.30	9.80	7.80	5.80	3.95	2.70	1.45	.20	0	0	0	0
320	340	33.65	17.45	11.45	9.25	7.25	5.25	3.60	2.35	1.10	0	0	0	0
340	360	37.50	19.65	13.65	10.70	8.70	6.70	4.70	3.25	2.00	.75	0	0	0
360	380	41.50	22.10	15.80	12.80	10.15	8.15	6.15	4.15	2.90	1.65	.40	0	0
380	400	45.50	25.00	17.95	14.95	11.95	9.60	7.60	5.60	3.80	2.55	1.30	0	0
400	420	49.50	27.90	20.10	17.10	14.10	11.10	9.00	7.00	5.00	3.45	2.20	.95	0
420	440	54.05	31.00	22.95	19.45	16.45	13.45	10.55	8.55	6.55	4.55	3.15	1.90	.65
440	460	58.85	34.15	26.15	22.15	18.85	15.85	12.85	10.15	8.15	6.15	4.15	2.90	1.65
460	480	63.65	38.15	29.35	25.35	21.35	18.25	15.25	12.25	9.75	7.75	5.75	3.90	2.65
480	500	68.45	42.15	32.55	28.55	24.55	20.65	17.65	14.65	11.65	9.35	7.35	5.05	3.65

## Legend:

S=Single

M=Married

D=Dependents

HF=Head of Family

(3), (5), (6), etc., refer to exemption units—one unit equals P600.

**SEMIMONTHLY WITHHOLDING TABLE—Continued****IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS SEMI-MONTHLY—Continued**

And the wages are—		And the personal exemption claimed is—												
At least	But less than	(0) (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D
		The amount of tax to be withheld shall be—												
500	550	76.85	49.15	39.15	34.15	30.15	26.15	22.15	18.85	15.85	12.85	10.15	8.15	6.15
550	600	88.85	60.85	49.15	44.15	39.15	34.15	30.15	26.15	22.15	18.85	15.85	12.85	10.15
600	650	100.85	72.85	60.85	54.85	49.15	44.15	39.15	34.15	30.15	26.15	22.15	18.85	15.85
650	700	112.85	84.85	72.85	66.85	60.85	54.85	49.15	44.15	39.15	34.15	30.15	26.15	22.15
700	750	124.85	96.85	84.85	78.85	72.85	66.85	60.85	54.85	49.15	44.15	39.15	34.15	30.15
750	800	136.85	108.85	96.85	90.85	84.85	78.85	72.85	66.85	60.85	54.85	49.15	44.15	39.15
800	850	148.85	120.85	108.85	102.85	96.85	90.85	84.85	78.85	72.85	66.85	60.85	54.85	49.15
850	900	163.85	132.85	120.85	114.85	108.85	102.85	96.85	90.85	84.85	78.85	72.85	66.85	60.85

  

900 and over		EXCESS OVER P900 MULTIPLIED BY THE RATE GIVEN BELOW—												
		30%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%
		PLUS—												
		170.85	138.85	126.85	120.85	114.85	108.85	102.85	96.85	90.85	84.85	78.85	72.85	66.85

**Legend:**

S=Single

M=Married

D=Dependents

HF=Head of Family

(3), (5), (6), etc., refer to exemption units—one unit equals P600.

## MONTHLY WITHHOLDING TABLE

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS MONTHLY

And the wages are—		And the personal exemption claimed is—													
At least	But less than	0 (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D	
The amount of tax to be withheld shall be—															
P0	P168	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0	P0
168	176	8.75	.25	0	0	0	0	0	0	0	0	0	0	0	0
176	184	9.40	.60	0	0	0	0	0	0	0	0	0	0	0	0
184	192	10.05	.95	0	0	0	0	0	0	0	0	0	0	0	0
192	200	10.70	1.30	0	0	0	0	0	0	0	0	0	0	0	0
200	208	11.30	1.70	0	0	0	0	0	0	0	0	0	0	0	0
208	216	11.95	2.05	0	0	0	0	0	0	0	0	0	0	0	0
216	224	12.60	2.40	0	0	0	0	0	0	0	0	0	0	0	0
224	232	13.25	2.75	0	0	0	0	0	0	0	0	0	0	0	0
232	240	13.90	3.10	0	0	0	0	0	0	0	0	0	0	0	0
240	248	14.50	3.50	0	0	0	0	0	0	0	0	0	0	0	0
248	256	15.15	3.85	0	0	0	0	0	0	0	0	0	0	0	0
256	264	15.80	4.20	0	0	0	0	0	0	0	0	0	0	0	0
264	272	16.45	4.55	0	0	0	0	0	0	0	0	0	0	0	0
272	280	17.10	4.90	0	0	0	0	0	0	0	0	0	0	0	0
280	288	17.70	5.30	.30	0	0	0	0	0	0	0	0	0	0	0
288	296	18.35	5.65	.65	0	0	0	0	0	0	0	0	0	0	0
296	304	19.00	6.00	1.00	0	0	0	0	0	0	0	0	0	0	0
304	312	19.65	6.35	1.35	0	0	0	0	0	0	0	0	0	0	0
312	320	20.30	6.70	1.70	0	0	0	0	0	0	0	0	0	0	0
320	328	20.90	7.10	2.10	0	0	0	0	0	0	0	0	0	0	0
328	336	21.55	7.45	2.45	0	0	0	0	0	0	0	0	0	0	0
336	344	22.45	7.80	2.80	0.30	0	0	0	0	0	0	0	0	0	0
344	352	23.45	8.15	3.15	.65	0	0	0	0	0	0	0	0	0	0
352	360	24.40	8.65	3.50	1.00	0	0	0	0	0	0	0	0	0	0
360	368	25.35	9.20	3.90	1.40	0	0	0	0	0	0	0	0	0	0
368	376	26.30	9.80	4.25	1.75	0	0	0	0	0	0	0	0	0	0
376	384	27.25	10.35	4.60	2.10	0	0	0	0	0	0	0	0	0	0
384	392	28.25	10.95	4.95	2.45	0	0	0	0	0	0	0	0	0	0
392	400	29.20	11.50	5.30	2.80	.30	0	0	0	0	0	0	0	0	0
400	420	30.85	12.50	5.95	3.45	.95	0	0	0	0	0	0	0	0	0
420	440	33.25	13.95	6.85	4.35	1.85	0	0	0	0	0	0	0	0	0
440	460	35.65	15.40	7.75	5.25	2.75	.25	0	0	0	0	0	0	0	0
460	480	38.05	16.85	8.85	6.15	3.65	1.15	0	0	0	0	0	0	0	0
480	500	40.45	18.30	10.30	7.05	4.55	2.05	0	0	0	0	0	0	0	0
500	520	43.25	19.70	11.70	7.95	5.45	2.95	.45	0	0	0	0	0	0	0
520	540	46.45	21.15	13.15	9.15	6.35	3.85	1.35	0	0	0	0	0	0	0
540	560	49.65	23.05	14.60	10.60	7.25	4.75	2.25	0	0	0	0	0	0	0
560	580	52.85	25.25	16.05	12.05	8.15	5.65	3.15	.65	0	0	0	0	0	0
580	600	56.05	27.40	17.50	13.50	9.50	6.55	4.05	1.55	0	0	0	0	0	0
600	640	60.85	30.65	19.65	15.65	11.65	7.90	5.40	2.90	.40	0	0	0	0	0
640	680	67.25	34.95	22.95	18.50	14.50	10.50	7.20	4.70	2.20	0	0	0	0	0
680	720	75.00	39.25	27.25	21.40	17.40	13.40	9.40	6.50	4.00	1.50	0	0	0	0
720	760	83.00	44.25	31.60	25.60	20.30	16.30	12.30	8.30	5.80	3.30	.80	0	0	0
760	800	91.00	50.00	35.90	29.90	23.90	19.15	15.15	11.15	7.60	5.10	2.60	0	0	0
800	840	99.00	55.75	40.25	34.25	28.25	22.25	18.05	14.05	10.05	6.90	4.40	1.90	0	0
840	880	108.05	61.95	45.95	38.85	32.85	26.85	21.15	17.15	13.15	9.15	6.35	3.85	1.35	0
880	920	117.65	68.35	52.35	44.35	37.65	31.65	25.65	20.35	16.35	12.35	8.35	5.85	3.35	0
920	960	127.25	76.35	58.75	50.75	42.75	36.45	30.45	24.45	19.55	15.55	11.55	7.85	5.35	0
960	1,000	136.85	84.35	65.15	57.15	49.15	41.25	35.25	29.25	23.25	18.75	14.75	10.05	7.35	0

## Legend:

S = Single

M = Married

HF = Head of Family

D = Dependents

(3), (5), (6), etc., refer to exemption units—one unit equals P600.

MONTHLY WITHHOLDING TABLE—*Continued*IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS MONTHLY—*Continued*

And the wages are—		And the personal exemption claimed is—													
At least	But less than	0 (None)	(3) S	(5) M or HF	(6) HF w/1 D	(7) HF w/2 D	(8) HF w/3 D	(9) HF w/4 D	(10) HF w/5 D	(11) HF w/6 D	(12) HF w/7 D	(13) HF w/8 D	(14) HF w/9 D	(15) HF w/10 or more D	
		The amount of tax to be withheld shall be—													
1,000	1,100	153.65	98.35	78.35	68.35	60.35	52.35	44.35	37.65	31.65	25.65	20.35	16.35	12.35	
1,100	1,200	177.65	121.65	98.35	88.35	78.35	68.35	60.35	52.35	44.35	37.65	31.65	25.65	20.35	
1,200	1,300	201.65	145.65	121.65	109.65	98.35	88.35	78.35	68.35	60.35	52.35	44.35	37.65	31.65	
1,300	1,400	225.65	169.65	145.65	133.65	121.65	109.65	98.35	88.35	78.35	68.35	60.35	52.35	44.35	
1,400	1,500	249.65	193.65	169.65	157.65	145.65	133.65	121.65	109.65	98.35	88.35	78.35	68.35	60.35	
1,500	1,600	273.65	217.65	193.65	181.65	169.65	157.65	145.65	133.65	121.65	109.65	98.35	88.35	78.35	
1,600	1,700	297.65	241.65	217.65	205.65	193.65	181.65	169.65	157.65	145.65	133.65	121.65	109.65	98.35	
1,700	1,800	326.65	265.65	241.65	229.65	217.65	205.65	193.65	181.65	169.65	157.65	145.65	133.65	121.65	

1,800 and over	{	EXCESS OVER ₱1,800 MULTIPLIED BY THE RATE GIVEN BELOW—													
		30%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%	24%
		PLUS—													
		341.65	277.65	253.65	241.65	229.65	217.65	205.65	193.65	181.65	169.65	157.65	145.65	133.65	

## Legend:

S = Single

M = Married

HF = Head of Family

D = Dependents

(3), (5), (6), etc., refer to exemption units—one unit equals ₱600.



**QUARTERLY PAYROLL PERIOD**

**If the payroll period with respect to an employee is quarterly, the amount of tax to be withheld shall be computed as follows:**

1. Divide the wage by 3 to determine in which bracket of the monthly withholding table the quotient will fall.
2. Then multiply by 3 the amount of tax corresponding to such bracket and to the employee's personal exemption column. The result will be the required amount of tax to be withheld.

**SEMIANNUAL PAYROLL PERIOD**

**If the payroll period with respect to an employee is semiannual the amount of tax to be withheld shall be computed as follows:**

1. Divide the wage by 6 to determine in which bracket of the monthly withholding table the quotient will fall.
2. Then multiply by 6 the amount of tax corresponding to such bracket and to the employee's personal exemption column. The result will be the required amount of tax to be withheld.

**ANNUAL PAYROLL PERIOD**

**If the payroll period with respect to an employee is annual, the amount of tax to be withheld shall be computed as follows:**

1. Divide the wage by 12 to determine in which bracket of the monthly withholding table the quotient will fall.
2. Then multiply by 12 the amount of tax corresponding to such bracket and to the employee's personal exemption column. The result will be the required amount of tax to be withheld.

Determination of the amount of tax to be withheld:

- (a) The amount to be withheld from wages paid is determined by means of the Government wage bracket withholding tables prescribed above. Separate tables are prescribed for different payroll periods such as the daily or miscellaneous, weekly, bi-weekly, semi-monthly, monthly, quarterly, semi-annually and annually.
  - (b) Under the above tables the amount of tax to be withheld depends upon the number of withholding exemptions claimed by the employee on his withholding exemption certificate filed with his employer and the amount of his payroll income.
  - (c) The line to be used in the tables is that for the bracket into which the particular wage payment fits, and the column to be used is determined from the withholding exemptions claimed by the employee on his withholding exemption certificate filed with his employer.
- (2) The table applicable to a daily or miscellaneous payroll period shows the tax on the amount of wages for one day.

The amount to be withheld in respect to a miscellaneous payroll period is arrived at as follows: Reduce the wages paid for the period to a daily basis by dividing the total wages by the number of days in the period. Apply the table to the wages so determined and multiply the result by the number of days in the period.

(3) *Period not a payroll period.*—If wages are paid for a period which is not a payroll period, the amount to be deducted and withheld shall be the amount applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(4) *Wages paid without regard to any period.*—If wages are paid without regard

equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the latest.

(5) *Period or elapsed time less than one week.*—It is the general rule that if wages are paid for a payroll period or other period of less than one week, the tax to be deducted and withheld under the wage bracket method shall be the amount computed for a daily payroll period, or for a miscellaneous payroll period containing the same number of days (including Sundays and holidays) as the payroll period, or other period, for which such wages are paid. In the case of wages paid without regard to any period, if the elapsed time computed in paragraph (4) is less than one week, the same rule is applicable.

(6) *Rounding off of wage payment.*—In determining the amount to be deducted and withheld the wage amount shall be computed to the nearest peso, provided such amount is in excess of the highest wage bracket of the applicable table.

ART. 1(a). If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than thirty-one consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

SEC. 8. *Included and excluded wages.*—If a portion of the remuneration paid by an employer to his employee for services performed during a payroll period (not exceeding 31 consecutive days) constitutes wages, and the remainder does not constitute wages, all the remuneration paid the employee for services performed during such period shall for purposes of withholding be treated alike, that is, either all included as wages or all excluded. The time during which the employee performs services, the remuneration for which under Article 1(a) constitutes wages, and the time during which he performs services, the remuneration for which under such article does not constitute wages, determine whether all the remuneration for services performed during the payroll period shall be deemed to be included or excluded.

If one-half or more of the employee's time in the employ of a particular person in a payroll period is spent in performing services the remuneration for which constitutes wages, then all the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

If less than one-half of the employee's time in the employ of a particular person in a payroll period is spent in performing services the remuneration for which constitutes wages, then none of the remuneration paid the employees for services performed in that payroll period shall be deemed to be wages.

ART. 2(e). *Personal exemption.*—(1) *In general.*—Unless otherwise provided in this supplement, the personal and additional exemptions applicable under this supplement, shall be determined in accordance with the main provisions of this Title.

(2) *Exemption certificates.*—(A) *When to be filed.*—On or before the date of the commencement of employment with an employer, or within ten days from the effectivity of this Act in case of persons already employed, the employee shall furnish the employer with a signed withholding exemption certificate relating to the personal and additional exemptions to which he is entitled.

(B) *Change of status.*—In case of change of status of an employee as a result of which he would be entitled to a lesser amount of exemption, the employee shall, within ten days from such change, file with the employer a new withholding exemption certificate reflecting the change. If the change would entitle the employee to a greater amount of exemption, he may furnish the employer with a new withholding exemption certificate reflecting such change.

(D) *Failure to furnish certificate.*—Where an employee, in violation of this supplement, either fails or refuses to file a withholding exemption certificate, the employer shall withhold the taxes prescribed under the schedule for zero exemption of the above withholding tax tables.

SEC. 9. *Right to claim withholding exemptions.*—An employee receiving wages shall on any day be entitled to withholding exemptions as provided in the main provisions of Title II. In order to receive the benefit of such exemptions, the employee must file with his employer a withholding exemption certificate. The number of exemptions to which an employee is entitled on any day depends upon his status as single, married, head of the family and the number of additional exemptions for dependents (i.e., legitimate, recognized natural, or adopted children, in accordance with section 23 of the Code).

Each employee may claim the following withholding exemptions with respect to wages paid on or after January 1, 1951.

(1) If single, ₱1,800 or 3 exemption units.

(2) If married or head of family, ₱3,000 or 5 exemption units.

(3) Additional exemption for each dependent, ₱600 or 1 exemption unit. An exemption unit equals ₱600; thus, a single person has 3 exemption units (₱1,800 divided by ₱600; a married person or head of family has 5 units; and a head of family with one dependent has 6 units, etc.

The civil status of the employee and the number of dependents must be taken into account in determining the amount of tax to be withheld.

The employer is not required to ascertain whether or not the number of withholding exemptions claimed is greater than the number of withholding exemptions to which the employee is entitled. If, however, the employer has reason to believe that the number of withholding exemptions claimed by an employee is greater than the number to which such employee is entitled, the Collector of Internal Revenue should be so advised.

SEC. 10. *Withholding exemption certificates.*—Except as hereinafter provided, every employee receiving wages shall furnish his employer a signed withholding exemption certificate, on Form W-4, relating to the number of withholding exemptions he claims, which shall in no event exceed the number to which he is entitled. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate, such employee shall be considered as claiming no withholding exemptions. Forms of certificate (Form W-4) will be supplied employers upon request from the Office of the Collector of Internal Revenue, Municipal Treasurer's Office or the Office of the Provincial Revenue Agent. In case prescribed forms are not available for any reason, employers shall prepare and use forms substantially identical to the prescribed form and of the same size. The certificates must be retained by the employer as a supporting record of the withholding exemption allowed.

Except as hereinafter provided, a withholding exemption certificate shall be furnished the employer by the employee on or before the date of the commencement of employment with the employer, or not later than January 10, 1951 in case of persons already employed.

Article 2(e) (2) (B) provides for the filing of new withholding exemption certificates when any change occurs which affects the number of withholding exemptions to which an employee is entitled. If, on any day during the calendar year, such number is more than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect, the employee may furnish the employer with a new withholding exemption certificate on which the employee must in no event claim more than the number of withholding exemptions to which he is entitled on such day.

If, however, on any day during the calendar year, the number of withholding ex-

emptions claimed by the employee on the withholding exemption certificate then in effect, the employee must within ten days after the change occurs furnish the employer with a new withholding certificate relating to the number of withholding exemptions which the employee then claims, which must in no event exceed the number to which he is entitled on such day.

RULE I.—Employee must file an amended certificate reducing the number of exemptions within ten (10) days from such decrease.

RULE II.—Employee may (but is not required) file an amended certificate increasing the number of exemptions at any time.

The employer must give effect to a new certificate furnished by the employee with respect to any wages paid after it is furnished.

A withholding exemption certificate shall continue in effect with respect to the employee until another such certificate takes effect.

The basis of determining the amount of the tax to be withheld by the employer is the exemption certificate filed by the employee. If no withholding exemption certificate is filed, the employer shall determine the tax to be withheld on the basis of the zero exemption.

SEC. 11. *Supplemental wage payments*—(a) *In general*.—An employee's remuneration may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period, or without regard to a particular period. When such supplemental wages are (whether or not at the same time as the regular wages) the amount of the tax required to be withheld under the wage bracket method shall be determined as follows:

The supplemental wages shall be aggregated with the wages paid for the payroll period, or, if not paid concurrently, shall be aggregated with the wages paid for the last preceding payroll period within the same calendar year or the current payroll period, and the amount of tax to be withheld shall be determined as if the aggregate of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

(b) *Special rule where aggregate withholding exemption exceeds wages paid*.—If supplemental wages are paid to an employee during a calendar year for a period which involves two or more consecutive payroll periods the wages for which are also paid during such calendar year and the aggregate of the wages paid for such payroll periods is less than the aggregate of the amounts determined under section 9 hereof as the withholding exemptions applicable for such payroll periods, the amount of the tax required to be withheld on the supplemental wages shall be computed as follows:

(1) Determine an average wage of each of such payroll periods by dividing the sum of the supplemental wages and the wages paid for such payroll periods by the number of such payroll periods.

(2) Determine a tax for each payroll period as if the amount of the average wage constituted the wages paid for such payroll period.

(3) From the sum of the taxes computed on the basis of the average wage per payroll period, subtract the sum of the taxes previously withheld for such payroll periods and the remainder, if any, shall constitute the amount of the tax to be withheld upon the supplemental wages.

The rules prescribed in this subsection shall, at the election of the employer, be applied in lieu of the rules prescribed in subsection (a) except that this subsection shall not be applicable in any case in which the payroll period of the employees is less than one week.

SEC. 12. *Wages paid for payroll period of more than one year*.—If wages are paid to an employee for a payroll period of more than one year, for the purpose of determining the amount of tax required to be deducted and withheld in respect of such wages, the amount of the tax shall be determined as if such payroll period constitute



SEC. 13. *Wages paid on behalf of two or more employers.*—If a payment of wages is made to an employee by an employer through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee, the amount of the tax required to be withheld on each wage payment made through such agent, fiduciary, or person shall, whether the wages are paid separately on behalf of each employer or paid in a lump sum on behalf of all such employers, be determined upon the aggregate amount of such wage payment or payments in the same manner as if such aggregate amount had been paid by one employer. Hence, the tax shall be determined upon the aggregate amount of the wage payment.

In any such case, each employer shall be liable for the return and payment of a *pro-rata* portion of the tax so determined, such portion to be determined in the ratio which the amount contributed by the particular employer bears to the aggregate of such wages.

A fiduciary, agent, or other person acting for two or more employers may be authorized to withhold the tax under this supplement with respect to the wages of the employees of such employers. Such fiduciary, agent, or other person may also be authorized to make and file returns of the tax withheld at source on such wages and to furnish the receipts required under this supplement. Application for authorization to perform such act should be addressed to the Collector of Internal Revenue. If such authority is granted by the Collector, all provisions of law (including penalties) and regulations prescribed in pursuance of law applicable in respect of an employer shall be applicable to such fiduciary, agent, or other person. However, the employer for whom such fiduciary, agent, or other person acts shall remain subject to all provisions of law (including penalties) and regulations prescribed in pursuance of law applicable in respect of employers.

SEC. 14. *Wages paid from two or more employers.*—Where wages are received from two or more employers, the exemption certificate may be filed with the main employer or the employer from whom the employee receives the biggest wages, and the tax to be withheld by the other employers shall be computed under zero exemption; or separate certificates may be filed with employer, in which case each employer will give effect to the exemption certificate on file with him. However, in order to keep his tax currently paid, it may be to the advantage of the employee to file an exemption certificate only with the main employer.

ART. 2(f) *Withholding on basis of average wages.*—The Collector of Internal Revenue may, under regulations promulgated by the Secretary of Finance, authorize employers (1) to estimate the wages which will be paid to an employee in any quarter of the calendar year, (2) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages, paid, and (3) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be required to be deducted and withheld during such quarter without regard to this subarticle.

SEC. 15. *Withholding on basis of average wages.*—The Collector of Internal Revenue may authorize the employer to withhold the tax under this supplement on the basis of the employee's average estimated wages, with necessary adjustments, for any quarter. Before using such method the employer must receive authorization from the Collector of Internal Revenue. Applications to use such method must be accompanied by evidence establishing the need for the use of such method.

ART. 2(g) *Husband and wife.*—When a husband and wife each are recipients of wages, whether from the same or from different employers, taxes to be withheld shall be determined on the following basis:

(1) The husband shall be deemed the head of the family and proper claimant of the additional exemption in respect to any dependent children;

(2) Taxes shall be withheld from the wages of the wife in accordance with

SEC. 16. *Husband and wife both recipients of wages.*—For the purpose of the provisions of the withholding tax on wages when both husband and wife are the recipients of wages either from the same or different employers, in the determination of the tax to be withheld, the husband is deemed to be the head of the family and is entitled to the additional exemptions for the dependent children. From the wages of the wife, the tax is determined by using for her the zero exemption in the withholding tax table.

ART. 2(h) *Nonresident aliens.*—Wages paid to nonresident alien individuals shall not be subject to the provisions of this supplement and shall be governed by the provisions of section fifty-three of this Title.

ART. 3. *Liability for tax.*—The employer shall be liable for the payment of the tax required to be deducted and withheld under this supplement, and shall not be liable to any person for the amount of any such payment.

ART. 2(b) *Tax paid by recipient.*—If the employer, in violation of the provisions of this supplement, fails to deduct and withhold the tax as required under this supplement, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subarticle shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

SEC. 17. *Liability for the tax.*—The employer is required to collect the tax by deducting and withholding the amount thereof from the employee's wages as and when paid, either actually or constructively. An employer is required to deduct and withhold the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stocks or bonds) and to pay the tax to the collecting officer designated in Article 4 of Supplement A. If wages are paid in property other than money, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment to the collecting officer.

Every person required to deduct and withhold the tax from the wages of an employee is liable for the payment of such tax whether or not is collected from the employee. If, for example, the employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. However, if the employer in violation of the provisions of the supplement fails to deduct and withhold the tax, and thereafter the income tax against which the tax may be credited is paid, the tax shall not be collected from the employer. Such payment does not, however, operate to relieve the employer from liability for penalties or additions to the tax for failure to deduct and withhold within the time prescribed by law or regulations made in pursuance of law. The employer will not be relieved of his liability for payment of the tax required to be withheld unless he can show that the tax against which the tax under the supplement may be credited has been paid.

The amount of any tax withheld collected by the employer is a special fund in trust for the Government of the Philippines.

The employer or other person required to deduct and withhold the tax under this supplement is relieved of liability to any other person for the amount of any such tax withheld and paid to the Collector of Internal Revenue or to any provincial, municipal or city treasurer.

Article 8 provides severe penalties for a willful failure to pay, collect, or truthfully account for and pay over, the tax imposed by the supplement, or for a willful attempt in any manner to evade or defeat the tax. Such penalties may be incurred by any person, including the employer, and any officer or employee of a corporate employer, or member or employee of any other employer, who as such employer, officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

ART. 2.(c) *Nondeductibility of tax in computing net income.*—The tax deducted and withheld under this article shall not be allowed as a deduction either to the employer or to the recipient of the income in computing net income under this Title.



ART. 2(d) Refunds or credits—(1) *Employer*.—Where there has been an overpayment of the tax under this article, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld hereunder by the employer.

(2) *Employees*.—The amount deducted and withheld under this supplement during any calendar year shall be allowed as a credit to the recipient of such income against the tax imposed under the main provisions of this Title. Refunds and credits in cases of excessive withholding shall be granted under rules and regulations promulgated by the Secretary of Finance.

SEC. 18. *Nondeductibility of tax and credit for tax withheld*.—The tax deducted and withheld at the source upon wages shall not be allowed as a deduction either to the employer or the recipient of the income in computing net income under Title II of the National Internal Revenue Code. The entire amount of the wages from which the tax is withheld shall be included in gross income in the return required to be made by the recipient of the income without deduction for such tax. The tax withheld at source, however, is allowable as a credit against the tax imposed by the main provisions of Title II upon the recipient of the income. Any excess of the tax withheld at source over the tax ascertained to be due on the income tax return upon office audit in the Bureau of Internal Revenue shall be refunded or credited, at his option, to the recipient of the income. Such refund or credit shall be without prejudice to whatever adjustments may be proper after field investigation or upon information relative to the taxpayer's income tax liability under the main provisions of Title II. If the tax has actually been withheld at source, credit or refund shall be made to the recipient of the income even though such tax has not been paid over to the Government by the employer. For the purpose of the credit, the recipient of the income is the person subject to tax imposed under the main provisions of Title II upon wages from which the tax was withheld.

ART. 4. *Return and payment to the Government of taxes withheld*.—Taxes deducted and withheld hereunder by the employer on wages of employees shall be covered by a return and paid to the treasurer of the province, city or municipality in which the employer has his legal residence or principal place of business, or, in case the employer is a corporation, in which the principal office is located. The return shall be filed and the payment made within twenty-five (25) days from the close of each calendar quarter. The taxes deducted and withheld by employers shall be held in a special fund in trust for the Government until the same are paid to the said collecting officers. The Collector of Internal Revenue may, with the approval of the Secretary of Finance, require employers to pay or deposit the taxes deducted and withheld at more frequent intervals, in cases where such requirement is deemed necessary to protect the interest of the Government.

ART. 5. *Return and payment in case of Government employees*.—If the employer is the Government of the Philippines, or any political subdivision, agency or instrumentality thereof, the return of the amount deducted and withheld upon any wages shall be made by the officer or employee having control of the payment of such wages, or by any officer or employee duly designated for that purpose.

SEC. 19. *Return and payment of income tax withheld on wages*.—Every person required, under the provisions of the supplement, to deduct and withheld the tax on wages shall make a return and pay such tax on or before the 25th day of the month following the close of each calendar quarter ending March 31, June 30, September 30, and December 31. Such return is to be made on Form W-1 (Return of Income Tax Withheld on Wages) and must be filed with the Collector of Internal Revenue, or the treasurer of the city, province, or municipality of which is located the principal place of business or office of the employer or in which is located his legal residence. There shall be included with the return filed for the fourth quarter of the calendar year or with the employer's final return, if filed at an earlier date, the triplicate of each withholding tax receipt (Form W-2a) furnished the employees.

The triplicate Forms W-2a, when filed with the office of the Collector of Internal

withholding) paid to each employee during the year, total taxes withheld during the year from such salary, and number of withholding exemptions of each employee. The column for taxes withheld should be totalled (preferably supported by an adding machine tape), which total should agree with that shown on Form W-3. If an employer's total payroll consists of a number of separate units or establishments, the triplicate Form W-2a may be assembled accordingly and a separate list submitted for each unit. In such case, a summary alphabetical list should be submitted. Where the number of triplicate receipts is large, they may be forwarded in packages of convenient size. When this is done, the packages should be identified with the name of the employer and consecutively numbered and Form W-3 should be placed in package No. 1. The number of packages should be indicated immediately after the employer's name on Form W-3. The tax return, Form W-1, and remittance in cases of this kind should be filed in the usual manner, accompanied by a brief statement that form W-2a and W-3 are in separate packages.

Every person required to withhold and pay any tax under this supplement shall keep such records as will indicate the names and addresses of the persons employed during the year payments to whom are subject to withholding, the periods of employment, and the amounts and dates of payment to such persons. No specific form for such records has been prescribed. Such records shall be kept at all times available for inspection by internal revenue officers.

The return must be signed by the employer or other person required to withhold and pay the tax and shall contain or be verified by a written declaration that it is made under the penalties of perjury.

If the person required to withhold and pay the tax under this supplement is a corporation, the return shall be made in the name of the corporation and shall be signed and verified by the president, vice-president, or other principal officer.

With respect to any tax required to be withheld under this supplement by a fiduciary, the return shall be made in the name of the individual, estate, or trust for which such fiduciary acts, and shall be signed and verified by such fiduciary. In the case of two or more joint fiduciaries the return shall be signed and verified by one of such fiduciaries.

If the Government of the Philippines, its political subdivision or any agency or instrumentality, is the employer, the return of the tax may be made by the officer or employee having control of payment of wages or other officer or employee appropriately designated for that purpose.

Pre-addressed form W-1 mailed by the Collector of Internal Revenue to employers should be used in filing returns. If the pre-addressed form is lost, a new one should be requested if sufficient time remains before the filing date. Should it be necessary to use a blank form not pre-addressed, care should be exercised to show the employer's name exactly as it appeared on previous returns.

Except in the case of quarterly adjustments, as explained elsewhere in these regulations, a return on Form W-1 may not be made for more than one calendar quarter of the year, nor may a portion of one calendar quarter be included with a portion of another calendar quarter in a single return on Form W-1 even though the entire period does not exceed three months.

SEC. 20. *Final returns.*—The last return on Form W-1 for any employer required to withhold and pay any tax under this supplement, who during the calendar year either goes out of business or otherwise ceases to pay wages, shall be marked "final return" by such employer. Such final return shall be filed with the office of the Collector of Internal Revenue, or provincial, municipal and city treasurer's office within 25 days after the date on which the final payment of wages is made for services performed for such employer, and shall plainly show the period covered and also the date of the last payment of wages. There shall be executed as part of each final return a statement giving the address at which the records required by this section will be kept, the name of the person keeping such records, and, if the business has been sold or other-

on which such sale or other transfer took effect. If no such date or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement. An employer who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns, but shall enter on the face of any return on which no tax is required to be reported a statement showing the date of the last payment of wages and the date when he expects to resume paying wages.

SEC. 21. *Use of prescribed forms.*—Copies of the prescribed forms will so far as possible be regularly furnished employers without application therefor. An employer will not be excused from making the return, however, by the fact that no return form has been furnished to him. Employers not supplied with the proper forms should make application therefor to the Collector of Internal Revenue in ample time to have their returns prepared, verified, and filed with the Collector of Internal Revenue or the provincial, municipal, or city treasurer's office on or before the due date. If the prescribed form is not available, a statement made by the employer disclosing the amount of taxes due may be accepted as a tentative return. If filed within the prescribed time the statement so made will relieve the employer from liability for the addition to tax imposed for the delinquent filing of the return under this supplement, provided that without unnecessary delay such tentative return is supplemented by a return made on the proper form.

SEC. 22. *Requirement for advance deposit of withheld taxes to the amount of ₱200 or more.*—It shall be the duty of every employer who withheld taxes of ₱200 or more during the month to pay within ten (10) days after the close of the calendar month to the provincial, municipal or city treasurer or to the Collector of Internal Revenue, all funds withheld as taxes during the calendar month. On or before the 25th day of the month following the close of each quarter of each calendar year, every employer shall make a return on Form W-1 to the Collector of Internal Revenue or to the provincial, municipal or city treasurer, covering the aggregate amount of taxes withheld during that quarter, and attach to such return, as payment for the taxes shown thereon, receipts issued to them by such provincial, municipal or city treasurer or by the Collector of Internal Revenue evidencing the payment of funds withheld as taxes; provided, however, that taxes withheld during the last month of the quarter by the employer may be remitted to the Collector of Internal Revenue or to the provincial, municipal or city treasurer together with the quarterly return (W-1), *i.e.*, not later than the 25th day from the close of the quarter.

ART. 6. *Statement and returns*—(a) *Requirement.*—Every employer required to deduct and withhold a tax in respect of the wages of an employee shall furnish to each such employee in respect of his employment during the calendar year, on or before January thirty-first of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement showing the wages paid by the employer to such employee during the calendar year, and the amount of the tax deducted and withheld under this supplement in respect of such wages. The statement required to be furnished by this article in respect of any wages shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary of Finance may by regulations prescribe.

(b) *Returns.*—Every employer required to deduct and withhold the taxes in respect of the wages of his employees shall, on or before January thirty-first of the succeeding year, submit to the Collector of Internal Revenue a return of the total amount withheld during the year accompanied by copies of the statements referred to in the preceding paragraph. This return, if made and filed in accordance with regulations promulgated by the Secretary of Finance shall be sufficient compliance with the requirements of section seventy-seven of this Title in respect of such wages.

(c) *Extension of time.*—The Collector of Internal Revenue, under such regulations as may be promulgated by the Secretary of Finance, may grant to any

SEC. 23. *Receipts for tax withheld at source on wages—(a) In general.*—Every employer or other person required to deduct and withhold the tax shall furnish at the end of each quarter to every employee from whose wages taxes have been withheld a receipt showing the total wages paid during the quarter and the amount of taxes withheld from such wages.

At the end of the calendar year, the employer shall furnish each employee the original and duplicate of Form W-2 showing the name and address of the employer, the name and address of the employee, the wages paid and the amount of the tax withheld during the calendar year. Such receipt on Form W-2 shall not show remuneration which does not constitute wages within the meaning of Article 1(a). Receipts prepared in substantially like form and size as Form W-2 will be acceptable if approved by the Collector of Internal Revenue.

The statement of Form W-2 shall be furnished to the employees on or before January 31 of the succeeding calendar year or if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made.

(b) *Extension of time for furnishing statements to employees.*—An extension of time, not exceeding 30 days, within which to furnish the withholding receipt (Form W-2) required by Article 6(a) upon termination of employment is hereby granted to any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that a withholding receipt be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days. The extension mentioned under this section refers to extension of time for furnishing the employee the withholding receipt (Form W-2) upon termination of employment.

(c) *Information return at source as to payments of one thousand eight hundred pesos.*—The making of information returns as to payments of more than ₱1,800 required under section 77 of the National Internal Revenue Code, as amended, will not be required with respect to any wages from which the tax has been withheld, provided the triplicates of the withholding receipts (Form W-2a) and the alphabetical list mentioned in section 19 hereof are submitted with the last quarterly return (Form W-1) for the year.

SEC. 24. *Quarterly adjustments—(a) In general.*—If, for any quarter of the calendar year, more or less than the correct amount of the tax is withheld, or more or less than the correct amount of the tax is paid to the Collector of Internal Revenue, or to the provincial, municipal or city treasurer, proper adjustment, without interest, may be made in any subsequent quarter of the same calendar year. No adjustment shall, however, be made under the provisions of this section in respect of an underpayment for any quarter after receipt from the Collector of Internal Revenue of notice and demand for payment thereof based upon assessment, but the amount shall be paid in accordance with such notice and demand; nor shall any adjustment under the provisions of this section be made in respect of an overpayment for any quarter after the filing of a claim for refund thereof. Every return on which an adjustment for a preceding quarter is reported must have securely attached as part thereof a statement explaining the adjustment, and designating the quarterly return period in which the error occurred. If an adjustment of an overcollection of tax which the employer has repaid to an employee is reported on a return, such statement shall include the fact that such tax was repaid to the employee.

(b) *Less than correct amount of tax withheld.*—If none, or less than the correct amount, of the tax is deducted from any wage payment and the error is ascertained prior to the making of the return on Form W-1 for the quarter in which such wages are paid the employer shall nevertheless report on such return and pay to the col-



in which such wages are paid, the undercollection adjusted in accordance with this subsection shall be paid to the collector, without interest, at the time prescribed for payment of the tax for the quarter in which such adjustment is made. If an adjustment is made pursuant to this subsection but the amount thereof is not paid when due, interest thereafter accrues.

If none, or less than the correct amount, of the tax is withheld from any wage payment, the employer may correct the error by deducting the amount of the undercollection from remuneration of the employee, if any, under his control after he ascertains the error. Such deduction may be made even though the remuneration, for any reason, does not constitute wages. The obligation of an employee to the employer with respect to an undercollection of tax from the employee's wages not subsequently corrected by a deduction made as prescribed herein is a matter for settlement between the employee and the employer.

(c) *More than correct amount of tax withheld.*—If, in any quarter, more than the correct amount of tax is deducted from any wage payment, the overcollection may be repaid to the employees in any quarter of the same calendar year. If the amount of the overcollection is repaid, the employer shall obtain and keep as part of his records the written receipt of the employee showing the date and amount of the repayment,

If an overcollection in any quarter is repaid and receipted for by the employee prior to the time the return on Form W-1 for such quarter is filed with the collecting officer, the amount of such overcollection shall not be included in the return for such quarter.

Subject to the limitations provided in subsection (a), if an overcollection in any quarter is repaid and receipted for by the employee after the time the return on Form W-1 for such quarter is filed and the tax is paid to the collecting officer, the overcollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year.

Every overcollection not repaid and receipted for by the employee as provided in this subsection must be reported and paid with the return on Form W-1 for the quarter in which the overcollection is made.

For information as to the manner of correcting errors in withholding which cannot be adjusted in a return for a subsequent quarter of the same calendar year, employers should consult the Collector of Internal Revenue.

SEC. 25. *Advance information required of employers.*—All employers who make payment during the year 1950 or expect to make payment during 1951 of wages of ₱1,800 or more a year (₱150 monthly, ₱75 semi-monthly, etc.), to any single employee, shall, on or before January 10, 1951, submit to the Collector of Internal Revenue a statement containing the following particulars:

Name: .....

Address: .....

Kind of business: .....

Number of employees receiving ₱1,800 or more annually: .....

New employers shall submit the above statement within ten (10) days after they acquire the status of employer, and they shall not commence payment of wages until such statement has been submitted. The said statements will be used in the preparation of lists or registers of employers.

ART. 7. *Surcharges for failure to render returns and for rendering false or fraudulent returns; delinquency in payment of taxes.*—The surcharges prescribed in section seventy-two of this Title in cases of failure to render returns and for filing false or fraudulent returns shall apply to the returns required under Articles four and five.

In case of the taxes deducted and withheld by the employer are not paid within the time prescribed, there shall be added to the amount of the taxes

on the amount of tax unpaid and interest at the rate of one *per centum* a month upon the amount required to be paid from the time the same became due until paid.

*"Surcharge for failure to render and for rendering false and fraudulent returns.*—The Collector of Internal Revenue shall assess all income taxes. In case of willful neglect to file the return or list within the time prescribed by law or in case a false or fraudulent return or list is willfully made, the Collector of Internal Revenue shall add to the tax or to the deficiency tax, in case any payment has been made on the basis of such return before the discovery of the falsity or fraud, as surcharge of fifty *per centum* of the amount of such tax or deficiency tax. In case of any failure to make and file a return or list within the time prescribed by law or by the Collector or other internal-revenue officer, not due to willful neglect, the Collector of Internal Revenue shall add to the tax twenty-five *per centum* of its amount, except that, when a return is voluntarily and without notice from the Collector or other officer filed after such time, and it is shown that the failure to file was due to a reasonable cause, no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax." (Section 72, Chapter IX, Title II, Commonwealth Act No. 466)

ART. 8. *Penalties.*—(a) *Penalties for failure to file, and for filing fraudulent returns or statements.*—Any person who willfully renders or furnishes a false or fraudulent return or statement required under the provisions of articles four, five and six or under regulations promulgated by the Secretary of Finance, or who willfully fails to render or furnish a statement as required in this supplement shall upon conviction, for each such act or omission, be fined not less than one thousand pesos nor more than two thousand pesos and imprisoned for not more than one year.

(b) *Penalties in respect of withholding exemption certificates.*—Any individual required to supply information who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under article two, shall, in lieu of any penalty otherwise provided, upon conviction be fined not more than one thousand pesos or imprisoned for not more than one year, or both.

The same penalty shall apply to an employer who willfully accepts as a fact or as true information which would reduce the tax to be withheld under article two thereof.

(c) *Penalties on corporate officers.*—The penalties prescribed in this article shall, in the case of an employer which is a corporation, partnership, or association, be imposed on the president, managers, treasurer, or other persons responsible for the particular act or omission.

ART. 9. *Verification of returns, etc.*—(a) *Power of Collector of Internal Revenue to require.*—The Collector of Internal Revenue, under regulations promulgated by the Secretary of Finance, may require that any return, statement, or other document required to be filed under this supplement, or under regulations promulgated by the Secretary of Finance, shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

(b) *Penalties.*—Every person who willfully makes and subscribes any return, statements, or other document which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction shall be subject to the penalties prescribed for perjury under the Revised Penal Code.

SEC. 26. *Penalties for false returns.*—Subarticle (b) of Article 9 provides for penalties in the case of any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter. Such person shall be guilty of a felony, and upon conviction, shall be subject to the penalties prescribed for perjury under the pro-



*"Payment with backpay certificate.*—When an employee is entitled to a backpay under the provisions of Republic Act Numbered Three Hundred and Four, the amount of income tax withheld under this Act shall, if he elects to pay his annual income tax with his backpay, be refunded to him unless the backpay being negotiated is insufficient to cover his tax liability, in which case only the excess of the total of the amount withheld and the amount of such backpay rights being negotiated, over his total income tax liability shall be refunded." (Section 15, Republic Act No. 590)

*Effective date.*—This Act shall apply to income received from January first, nineteen hundred and fifty except Section 12 hereof which shall take effect on January 1, 1951: *Provided, however,* That, unless otherwise expressly extended by Congress, the increased taxes provided for in this Act shall continue in force and effect only until December thirty first, nineteen hundred and fifty two, after which period the actual rates of taxes shall again be in force.

SEC. 27. *Applicability; constructive receipt of wages.*—The withholding tax on wages shall apply on wages paid on or after January 1, 1951, regardless of when such wages were earned. Thus, if an employee is paid wages on January 1, 1951 for services performed during the calendar year 1950 or any preceding year, the withholding provisions of Supplement A and these regulations shall apply.

Wages are constructively paid within the meaning of these regulations when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case, the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his control and disposition.

SEC. 28. *Effectivity.*—These regulations shall take effect on January first, nineteen hundred and fifty-four.

JAIME HERNANDEZ

*Secretary of Finance*

Recommended by:

J. ANTONIO ARANETA

*Acting Collector of Internal Revenue*

## REVENUE REGULATIONS No. V-38

September 1, 1954

## NARCOTIC DRUGS REGULATIONS

To all Internal Revenue Officers and Others Concerned:

## Introductory

The Act of Congress approved June 20, 1953 known as the Narcotic Drugs Law, imposes special (occupational) taxes upon persons engaging in activities involving opium, coca leaves, marihuana or any synthetic drugs which are declared habit forming or any compound, manufacture, salt, derivative or preparation thereof. The law also imposes an internal revenue tax upon any such materials which are produced, manufactured or imported into the Philippines and sold, or removed for consumption or sale.

These regulations deal with details as to tax computation, procedure, the forms of records to be kept and reports submitted. These matters in some degree are controlled by certain sections of Commonwealth Act No. 466.

## CHAPTER I

## SCOPE AND DEFINITIONS

SECTION 1. *Scope*.—In accordance with the provisions of the Act of Congress approved June 20, 1953 and Commonwealth Act No. 466, as amended, and with a view to making the requirements of the Republic of the Philippines with respect to the importation, exportation and local traffic in narcotic drugs conform to the system of import certificates and export authorizations prescribed by the Advisory Committee on Traffic In Opium and Other Dangerous Drugs, and to the different Conventions and Protocols governing the traffic in narcotic drugs to which this country was a party, the following regulations are promulgated to supersede all precedents, rulings, regulations, general circulars, and administrative orders heretofore published on the same subject, and shall be known as Regulations No. V-38, or Narcotic Drugs Regulations.

SEC. 2. *Definition of Terms*.—As used in these Regulations, the following terms shall be taken to mean as follows:

(a) "Law" or "this law" means the Act approved on June 20, 1953, Republic Act No. 953, otherwise known as the Narcotic Drugs Law.

(b) "Narcotics", "narcotic drugs" or "prohibited drugs" includes opium, marihuana, opium poppies, coca leaves, or any synthetic narcotic drugs which have addiction-producing or addiction-sustaining liability similar to morphine as provided for in section 339 of the National Internal Revenue Code, as amended, or any compound, manufacture, sale, derivative, or preparation thereof, including "exempt preparations".

(c) "Exempt preparations" means the preparations and remedies described in section 7 of the law, which contain not more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or if a solid or semisolid preparation, on one avoirdupois ounce, and liniments, ointments, or other preparations for external use only, except liniments, ointments, and other preparations which contain cocaine, or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them, provided that such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and a record of all sales, exchanges, or gifts of such preparations and remedies is kept as required by section 71 of these Regulations.

(d) "Opium" includes every kind, class and character of opium, whether crude, prepared, ash or refuse.

(e) "Raw opium" means the spontaneously coagulated juice obtained from the capsules of the *Papaver somni ferum* L. which has only been submitted to the necessary manipulations for packing and transportation, whatever its contents of morphine.

(f) "Medicinal opium" means raw opium which has undergone the processes necessary to adapt it for medicinal use.

(g) "Marihuana or Indian hemp" means the dried flowering or fruiting tops of the pistillate plant *Cannabis sativa* L. from which the resin has not been extracted, under whatever name they may be designated in commerce.

(h) "Collector" means the Collector of Internal Revenue.

(i) "Exempt officials" includes officials of the national, provincial, city, or municipal governments.

(j) "Person" includes natural or juridical person; also drugstore, hospital, college of pharmacy, medical or dental clinic, sanatorium, or other similar institution or entity.

(k) "Purchasing Agent" means the Government Official referred to in section 2040 of the Revised Administrative Code.

(l) "Physician" includes all persons duly authorized to practice medicine or surgery but does not include *cirujanos ministrantes* in medicine.

(m) "Dentist" includes all persons duly authorized to practice dental medicine or surgery but does not include *cirujanos ministrantes* in dentistry.

(n) "Veterinarian" includes all persons duly authorized to practice veterinary medicine or surgery.

(o) "Pharmacist" includes all persons duly authorized to practice pharmacy.

(p) Words importing the singular may include the plural; words importing the masculine gender may be applied to the feminine or the neuter.

(q) The definitions contained herein shall not be deemed exclusive.

## CHAPTER II

### REGISTRATION AND TAXES

SEC. 3. *Persons liable.*—All persons not specifically exempted in chapter IV hereof, who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away narcotics shall register with the Collector of Internal Revenue and before engaging in business pay the taxes prescribed in section 4 hereof. These requirements shall be applicable to physicians, dentists and veterinarians, even if they are in the service of the Government of the Philippines whenever they prescribe or dispense narcotics in their private capacity.

A license to deal in narcotic drugs shall be issued only to a person who in the opinion of the Collector is:

1. A person of good moral character,
2. One who complies with such additional requirements as the Secretary of Finance shall deem and prescribe as reasonably necessary for the control of the traffic in narcotic drugs.

SEC. 4. *Administrative designation.*—The registration of the persons embraced in these regulations and the collection of the taxes shall be effected under the following administrative designation:

Schedule S, paragraph 1: Amount of tax ₱6 per annum or a fractional part thereof—for persons mentioned in section 72 hereof.

Schedule S, paragraph 2: Amount of tax ₱6 per annum—for physicians, dentists, veterinarians, and other professionals lawfully entitled to distribute, dispense, give away or administer any narcotic drugs.

Schedule S, paragraph 3: Amount of tax ₱12 per annum—for retail dealers.

Schedule S, paragraph 4: Amount of tax ₱36 per annum—for wholesale dealers.

Schedule S, paragraph 5-I for importers: Amount of tax ₱72 per annum.

Schedule S, paragraph 5-C for compounders, producers and manufacturers: Amount of tax ₱72 per annum.

Schedule S, paragraph 6: Amount of tax ₱6 per annum—for persons not registered as an importer, manufacturer, producer or compounder but lawfully entitled to obtain and use in a laboratory narcotics for the purpose of research, instruction or analysis.

Schedule S, paragraph 7: For persons paying an internal revenue tax of five centavos per 30 grams in accordance with section 12 hereof.

When business is done during the month of January, the tax shall be paid for the full year.

The tax on S-1 is ₱6 a year or any fraction thereof, regardless of the commencement of the business. In Schedule S, paragraphs 2, 3, 4, 5 and 6, if business is commenced after the month of January, the amount due is to be reckoned proportionately by months from the first day of the month in which business is begun to December 31 following. Renewals of Schedule S tax-receipts must be made not later than January 20th of each year.

*Prescription compounding.*—Persons who have paid the tax as retail dealers (see Sec. 9) do not incur liability as manufacturers or compounders on account of compounding narcotic preparations to fill legitimate prescriptions of registered practitioners.

The S-1 tax-receipt should be issued only to those persons who do not possess any other Schedule S tax-receipt. Hence, if one is already in possession of an S-3 tax-receipt as a retail dealer in narcotic drugs, or any other tax-receipt under Schedule S issued under these regulations, he need not secure an S-1 tax-receipt. If the dealer or pharmacist himself makes his medicines containing narcotic drugs in pursuance of prescriptions, he should secure an S-3 tax-receipt although the amount of narcotic drugs mixed with said medicine does not exceed the amount fixed in section 72.

SEC. 5. *Display and Retirement of Tax-Receipt.*—The person to whom a tax-receipt has been issued shall at all times keep it conspicuously displayed in his office or place of business during the period for which the tax was paid.

Holders of Schedule S tax-receipts who desire to retire from business or occupation on or before the expiration date of the period covered by the tax-receipts shall execute the retiring taxpayer's certificate printed thereon and present them to the deputy provincial treasurer of the municipality where they are at the time. The deputy provincial treasurer shall note on the body of the privilege tax-receipt the fact of retirement and return the same to the taxpayer who shall retain it and the said official should promptly mail the certificate to the Collector of Internal Revenue.

SEC. 6. *Deputy Provincial and City Treasurer's Report of Registration.*—Immediately after the issuance of each schedule S tax-receipt, deputy provincial and city treasurers shall mail a report direct to the Collector of Internal Revenue, furnishing a copy thereof to the provincial treasurer in the case of deputy provincial treasurers.

The report shall contain the following:

1. Name or style of the person or firm to whom the tax-receipt was issued,
2. Date of issue,
3. Paragraph and assessment number of the tax-receipt issued,
4. Amount of tax paid,
5. Period for which such tax is paid,

6. Kind of business, occupation, or profession,  
7. Place of business (street, number, municipality and province), and

8. The number and date of the certificate of registration issued by the Board of Medical Examiners, the Board of Dental Examiners, the Board of Veterinary Examiners or the Board of Pharmaceutical Examiners and Inspectors, as the case may be, authorizing the taxpayer to engage in the business or follow the occupation or profession for which the tax-receipt has been issued. If he has no such certificate issued by any of the said Board, such fact shall be so stated.

SEC. 7. *Producers.*—Every person who produces narcotic drugs or preparations to be sold on order forms not by mixing or compounding but by merely transferring the contents of one package or of a number of packages of the same or of greater or smaller size is liable to tax as a producer at the rate of ₱72 per annum. As to liability to internal revenue tax (see section 12).

SEC. 8. *Wholesale Dealers.*—Every person who sells or offers for sale narcotic drugs or preparations in original packages is subject to tax as a wholesale dealer at the rate of ₱36 per annum. A wholesale dealer is not allowed to import, manufacture, produce, compound, or mix up in any manner any narcotic drugs. His business consists in buying and selling narcotics in the original packages or containers. He cannot open the original packages or containers and dispose of a portion only of any of their contents without providing himself with an S-3 privilege tax-receipt.

SEC. 9. *Retail dealers.*—Every person who sells narcotic drugs or preparations from original stamped packages with or without compounding, pursuant to prescriptions written by registered physicians, dentists, and veterinarians in the course of professional practice only is liable to tax as a retail dealer at the rate of ₱12 per annum, except when the package does not contain more than the number of ampules or tablets specified in section 66 hereof. Holders of S-3 tax-receipts, when engaged in the business of compounding medicines containing prohibited drugs for the purpose of keeping them in stock for sale or disposition at wholesale should secure the S-5 tax-receipt as compounders of prohibited drugs. However, such holders of S-3 tax-receipts who engage in the business of manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies, which do not contain more than two grains (0.1296 gram) of opium, or more than one-fourth of a grain (0.0162 gram) of morphine, or more than one-eighth of a grain (0.0081 gram) of heroin, or more than one grain (0.0648 gram) of codeine or any salt or derivative of any of them in one fluid ounce (29.57 cubic centimeters) or, if a solid or semisolid preparations, in one avoirdupois ounce (28.3495 grams) or preparations and remedies of Indian Hemp for external use only,

provided that such preparations and remedies are manufactured for retail trade as medicines and not for the purpose of evading the intentions and provisions of the law, need not secure the S-5 tax-receipt. When a pharmacist in charge of prohibited drugs in a drugstore transfers such drugs to his successor, he shall not be considered, with respect to such transfer, as wholesale dealer, in prohibited drugs.

SEC. 10. *Importers, Manufacturers and Compounders.*—The S-5-I should be issued only to importers, and the S-5-C to compounders, manufacturers or producers. An importer, as such, cannot manufacture, produce, or compound any narcotic drugs or medicines containing them and neither can a manufacturer, compounder, or producer, as such, import narcotic drugs or medicines containing them. An importer, under an importer's tax-receipt only, cannot purchase narcotic drugs from local firms for sale or distribution at wholesale without first securing an S-4 tax-receipt as wholesale dealer. Importers, manufacturers, producers, or compounders of prohibited drugs will not be required to secure privilege tax-receipts as wholesale dealers for the disposal of the drugs imported, manufactured, produced, or compounded by them. But those desiring to dispose of said drugs at retail should secure retail dealer's privilege tax-receipts. A pharmacist holding an S-3 tax-receipt as a retail dealer in prohibited drugs and who fills prescriptions of registered physicians, in the preparation of which he used a portion of prohibited drugs from the original packages or containers, is not required to secure an S-5 tax-receipt as a compounder.

SEC. 11. *Laboratory Use.*—Chemists occupying an independent status and not that of an employee, who, being thereunto lawfully entitled, make analysis of narcotic drugs or preparations or use of such drugs in analyzing other substances in a laboratory, and other lawfully entitled persons who obtain and use in a laboratory any narcotic drugs or preparations for the purpose of research, instruction, or analysis, if not registered as a compounder, importer or manufacturer and not manufacturing or compounding narcotic drugs or preparations for sale or removal for consumption or sale, are liable to tax at the rate of ₱6 per annum.

SEC. 12. *Internal Revenue Tax.*—An internal revenue tax at the rate of five centavos per thirty grams and any fractional part thereof in a package shall be paid by the importer, manufacturer, producer, or compounder of opium, coca leaves, synthetic narcotic drugs, any compound, salt, derivative or preparation thereof, imported into or produced in the Philippines and sold or removed for consumption or sale, which shall be in addition to any import duty due on such narcotic drugs and shall be paid immediately before removal from the place of production, if produced in the Philip-

piners, or if imported, before the release of such drugs from the custom house.

(a) *Amount of Tax.*—The tax is five centavos per 30 grams or fraction thereof in each package consisting of taxable unit. For instance, the tax on a package containing thirty-one grams will be ten centavos. The tax on a package containing less than 30 grams will be five centavos. The tax is measured by the entire content of a taxable package or container, not by the weight of the narcotic content therein.

(b) *Unit of tax.*—With the exception noted in the succeeding paragraph, the taxable unit is the smallest individual package or container. Thus, if a manufacturer sells a preparation in packages containing five grams each and puts such five packages into a larger container, the tax is not five centavos on the outer container but on each of the inner packages.

(c) *Ampoules.*—When ampoules or other hermetically sealed units, each containing only a single dose, are put up in packages holding not more than 12 units the tax may be paid on the joint contents of the entire number of units.

A new tax liability will attach whenever a new derivative, compound, or preparation is produced, whether or not the tax has been paid on the component ingredients or parts thereof. Thus, imported opium is subject to one tax, morphine produced in this country from such imported opium is subject to another tax, a preparation manufactured by the use of such morphine also will be subject to tax and so on.

Preparations and remedies coming within the provisions of section 7 of the Law are not subject to the tax.

Manufactured narcotic drugs or preparations which are subsequently exported are subject to tax whether manufactured for export or not.

SEC. 13. *Transfer tax.*—Each transfer of marijuana to a person within the country is subject to tax. The tax is due whether the transfer is in the Philippines or elsewhere. The tax applies to every transfer, no matter how often the same material may be transferred. It is no basis of exemption that a transferred article was produced from material in the transfer of which the tax has been paid.

*Amount of Tax.*—Where the transfer is to a taxable person who has duly registered and paid his privilege tax mentioned in section 4, the transfer tax is at the rate of P2 per thirty grams or fraction thereof. If the transfer is to a person who has not registered and paid the privilege tax aforementioned, the tax is at the rate of two hundred pesos per thirty grams or fraction thereof.

SEC. 14. *Repacking.*—Repacking narcotics is production within the intent of the law and narcotics so produced are taxable regardless of any tax previously paid thereon.

Retail druggists may, under the conditions indicated in section 4 under the head of "Prescrip-

tion compounding" fill prescriptions without payment of tax on the narcotics furnished in such manner.

SEC. 15. *International movements—Exports.*—Manufactured narcotic drugs or preparations which are subsequently exported are subject to tax whether manufactured expressly for export or not.

*In transit shipments.*—Narcotic merchandise arriving in a port of the Philippines, shown by the shipping papers, i.e., either the bill of lading, manifest, or invoice, to be intended for transportation through the port, or through the Philippines to another country, and which is permitted by the Collector of Internal Revenue to be transported to a foreign destination is not subject to tax.

SEC. 16. *Manner of Payment.*—The internal revenue tax of five centavos per 30 grams is paid by the attachment to the package forming the taxable unit of a stamp or stamps in sufficient amount. One or more stamps of an appropriate size shall be so affixed as to securely seal the package. In the case of bottles, can, or other containers with stoppers, lids, or other removable closing devices the stamp or stamps shall seal the stopper, lid or other closing device at two opposite points. In the absence of appropriate stamps, this internal revenue tax may be paid on official receipt which should be duly recorded in the record book showing the date of payment, amount paid, number of packages and official receipt number.

SEC. 17. *Procurement of Stamps.*—Stamps for affixing to packages or containers of narcotics will be furnished only on requisition of persons registered under Schedule S-5-I and S-5-C. The stamps are not transferable except to a successor in business who has registered and paid tax under Schedule S-5-I and S-5-C at the same location, but unused stamps may be redeemed. Upon receipt of these stamps in the Bureau of Internal Revenue the stamp auditing committee will verify and destroy same by burning and upon receipt of a copy of a certificate of such destruction the Statistical Division, will as soon as practicable, draw a warrant refunding the face value of the stamps destroyed which warrant will be forwarded, when properly accomplished, to the importer or compounder.

SEC. 18. *Marking of Containers.*—Each original stamped package containing a narcotic drug mixed with other ingredients shall show the name or kind of narcotic drug contained therein. If the narcotic drug is mixed with some other ingredient or ingredients, the kind and quantity of narcotic to the ounce shall be shown unless the preparation is prepared in accordance with the United States Pharmacopeia or the National Formulary. If the preparation contains more than one kind of narcotic, the name and quantity of each to the ounce shall be indicated. If the drug or preparation is in tablet, pill, ampoule, or suppository form, the quantity of each unit shall be given; if such information is given it will not be necessary, so far as this law is concerned, for the entire net weight of the con-



tents to be shown. The packages and their contents will, however, be subject to the provisions of the Food and Drugs Law and regulations issued thereunder. All narcotic drugs subject to the internal revenue tax should bear the warning "may be habit forming". All packages containing synthetic narcotic drugs should be furnished with clear marking, e.g. with a double red line which should be about 1 centimeter apart and placed at an angle of forty-five degrees.

SEC. 19. *Identification Numbers.*—The manufacturer or producer of each package containing 30 grams or more of narcotic drugs or any of their salts or derivatives, and each package containing tablets, pills or preparations the drug content of which amounts to 30 grams or more, shall place thereon his name and location, and an individual identification number and shall make record of such number together with the name and address of the purchaser, so arranged that upon disclosure of the identification number the identity of the purchaser can readily be ascertained. Likewise a wholesale dealer shall keep a record showing how such package is disposed of, the manufacturer's name, location, and identification number, the name and address of the purchaser, and the date of disposal, so arranged that upon disclosure of the identity of the manufacturer and the identification number, the identity of the purchaser can readily be ascertained.

SEC. 20. *Cancellation of Stamps.*—Stamps will be cancelled by noting thereon in red or black ink or by perforation the date of cancellation. Stamp once affixed to one package or container cannot lawfully be removed and affixed to another.

SEC. 21. *Dual Liabilities.*—Any person conducting two or more classes of business at the same location must pay a separate tax with respect to each such class.

SEC. 22. *Several Places of Business.*—Generally a taxpayer must pay as many special taxes as he has places of business. Thus, if a concern has one or more separate branches where any of the various taxable businesses is carried on, the tax must be paid for each branch separately. However, a manufacturer, compounder or producer who has paid the tax as such, and who has a principal office or place of business separate and apart from the place where the actual manufacturing, compounding or producing is done, is not required to pay an additional tax with respect to such office or place of business provided that no merchandise except samples is kept thereat, on account of orders taken at such office or place of business for narcotics to be delivered from the place of manufacture, compounding or production. If sales are from the place of manufacture, compounding or production, from stock kept at such office or place of business, the tax as a wholesale or retail dealer, or both, as the case may be, must be paid with respect to such office or place of business.

SEC. 23. *Warehouses.*—The tax does not attach with respect to a warehouse where narcotic drugs are stored, provided that no sales are made at such place.

SEC. 24. *Itinerant vendors.*—No person is permitted to dispense or deal in narcotic drugs or preparations except upon orders received or engagements made at, with respect to, or by reason of, a fixed address. A peddler of such drugs or preparations will be regarded as incurring a separate tax liability and committing an additional offense at each place where a sale is made.

SEC. 25. *Partnership.*—A partnership is subject to the same tax liability as an individual. Should either of the partners also individually engage in a taxable activity, he will incur additional liability with respect to such activity.

SEC. 26. *Institutions.*—Hospitals, colleges, medical and dental clinics, sanatoriums, and other institutions not expressly exempted from the tax are subject to the same special tax liability as other persons dealing in or handling narcotic drugs or preparations.

SEC. 27. *Principals.*—Principals and not their agents, are liable to the taxes imposed. Employers and other principals will be regarded as responsible for the acts of the employees and other agents within the scope of their employment.

SEC. 28. *Employees.*—An employee of a person who has registered and paid the tax will not himself incur liability to tax as long as he acts solely within the scope of his employment. However, an employee who, within or without the scope of his employment, does any unlawful act, will be held personally liable.

SEC. 29. *Nurses.*—Nurses are regarded as agents of practitioners of institutions under whose direction or supervision their duties are performed, and they are neither permitted to register, nor be in possession of narcotic drugs or preparations, except as such agents, or as patients. Any unused narcotic drugs left by a practitioner with a nurse, to be administered during his absence, upon discharge of the nurse must be returned to the practitioner, who will account for the drugs in his records. Any such narcotic drugs found in the possession of a nurse not at the time under the supervision of a practitioner shall be forfeited to the Government.

SEC. 30. *Traveling salesmen.*—Traveling salesmen who merely solicit orders and forward them to their respective principals are not required to register or pay any tax.

### CHAPTER III

#### ORDER FORMS

SEC. 31. *Written Order Required.*—Except as otherwise provided, order forms are required for all transactions in narcotic drugs. Upon requisition by provincial and city treasurers, the Collector of Internal Revenue will furnish them, on memorandum receipts, with blank opium order books (B. I. R. Form 26.01) to be distributed to their deputies for



sale in numerical order. Import certificate books (B. I. R. Form No. 26.08) and orders for Importation of Exempt Preparations (B. I. R. Form No. 26.04) may be secured from the Collector of Internal Revenue.

(a) *Report of sales of order books.*—Immediately upon the sale of each order book, the city or deputy provincial treasurer shall report directly to the Collector of Internal Revenue the inclusive serial numbers of the form in the book sold and the name and assessment number of the current "S" privilege tax-receipt of the person to whom sold, furnishing, in the case of the deputy provincial treasurers a copy of said report to the provincial treasurer.

(b) *Accounting of proceeds of the sales of order books.*—Provincial and city treasurers shall account for the proceeds of sale of opium order books in accounts payable. They shall forward to the Collector of Internal Revenue a monthly statement showing the number of books carried forward from the preceding month, of books received sold, returned to the Collector of Internal Revenue during the current month, and the number of books on hand at the end of the current month. Such statement shall be made immediately at the end of each month, and if there were sales during the month, the statement shall be accompanied by the remittance of the proceeds.

(c) *Restriction of sales of opium order, import certificate books and orders for importation of exempt preparations.*—Blank order forms may be obtained only by persons who are duly qualified under the Philippine Narcotic Law and have legitimate use therefor. Opium order books shall be sold only to persons holding current schedule S tax-receipts except S-1, and import certificate books (B. I. R. Form No. 26.08) only to persons holding current schedule S-5-I tax-receipts, as importers.

(d) *Orders not transferrable.*—A taxpayer to whom an opium order book (B. I. R. Form No. 26.01), an import certificate book (B. I. R. Form No. 26.08) and Order for importation of exempt preparations (B. I. R. Form No. 26.04) has been issued cannot transfer it to another except when no part of the books has been used, in which case the authority of the Collector of Internal Revenue must be secured before effecting the transfer.

(e) *Orders to be used consecutively.*—Opium orders (B. I. R. Form No. 26.01), order for importation (B. I. R. Form No. 26.08) and orders for importation of exempt preparations (B. I. R. Form No. 26.04) shall be used consecutively. If an order is cancelled or spoiled, all the copies thereof shall be forwarded to the Collector of Internal Revenue, or if it is lost or destroyed, an affidavit setting forth the circumstances of such loss or destruction shall be submitted to him. No order bearing a number following that of the order cancelled, spoiled, or missing, shall be acted upon by the said official unless the foregoing requirements are complied with.

SEC. 32. *Disposition of Narcotic Drugs.*—It shall be unlawful for any person to sell, barter, exchange, or give away any narcotic drugs, except in pursuance of an opium order and a permit from the Collector of Internal Revenue as provided for in these regulations. This requirement shall also apply to transfers of narcotic drugs from one pharmacist to another in the same pharmacy or from wholesale to retail within the same establishment. No manufacturing or compounding of any preparation shall be done without a permit duly approved by the Collector of Internal Revenue. Nothing contained in this section shall apply to:

(1) A dealer selling, dispensing or distributing any narcotic drugs to a consumer under and in pursuance of an original prescription of a registered physician, dentist, or veterinarian registered under these regulations or of a Government official authorized to prescribe narcotic drugs.

(2) Physicians, dentists, veterinarians registered under these regulations who, in the course of their professional practice, administer such drugs to their patients upon whom they personally attend for legitimate medical purposes,

(3) For unlawful exportations,

(4) For the sale, distribution, giving away, dispensing, or possession of preparations and remedies mentioned in section 72 provided that such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of the law and that a record of dispositions is kept as required by section 74, and

(5) Duly registered persons with a current schedule S tax-receipt who dispose of narcotic drugs on personal written emergency orders in accordance with and under the circumstances outlined in section 37 of these regulations.

SEC. 33. *Local purchases of Narcotic Drugs.*—Upon receipt by the Collector of order forms, the signature on such order form shall be compared with the signature appearing on the application for registration (B. I. R. Form No. —). Unless the Collector is satisfied that the order is authentic it will not be honored.

(a) *Execution of forms.*—Order forms are issued in quintuplicate and shall be executed in quintuplicate. The attachment of extra sheets to order forms is not permitted. If one order form is not sufficient to include all the items of an order, a second form shall be used. The order forms are intended solely to cover disposition of narcotic drugs and preparations to registered persons. Separate order books should be used for the compounding, wholesaling and retailing business. They shall not in any case be used as prescriptions.

(b) *Manner of preparation.*—The order forms shall become a part of the permanent records of the registrant filling them, and are required by law to be kept available for inspection for a period of five years. The importer, manufacturer or whole-

salers should insist for his own protection that the order forms be prepared in such a manner as to render their subsequent alteration both difficult of accomplishment and easy of detection. Purchasers should also be careful to protect order forms signed by them against subsequent alteration. Official order forms of the purchase of taxable narcotic drugs should be prepared by the use of typewriter or ink, and manufacturers and wholesale dealers should return unfilled any order form executed in a less permanent manner. The date when the order is prepared, the name and address of the firm from purchase is to be made, the name and address and current S tax-receipt of the purchaser shall be entered in the space provided therefor. Only one item should be entered on each line and not more than six items shall be entered on a single order form. An item shall consist of one or more packages or bottles of the same kind and size; two or more such packages or bottles shall always be regarded as a single item and shall never be counted on the form as two or more items. A separate item shall be made for each article of different description or size. The purchaser shall show with respect to each item the number of packages, in terms of kilos, grams, ounces, grains, pills or tablets (indicating size in case of pills or tablets), if in a solid form, or in terms of liters, gallons, pints or ounces, if in liquid form; the name of the article desired, and the name and the quantity of the narcotic drugs contained in the article if it is not itself a pure narcotic drug.

(c) *Qualifications of Purchaser.*—The purchaser shall at the time the order is submitted be registered and shall have paid the internal revenue taxes necessary to qualify him up to the end of the calendar year. The purchaser shall likewise be qualified for the year within which the merchandise is received. Any person executing and presenting an order form who, at the time of such presentation is not duly registered and has not paid the necessary internal revenue taxes (will be liable to the penalties provided for by law.

SEC. 34. *Manner of approval.*—Upon receipt of B. I. R. Form No. 26.01 in quintuplicate, the Collector or his duly authorized representative will signify his approval by executing the permit portion of the form. Upon approval, the same should be entered in a book for the purpose, and numbered consecutively, the number appearing in the permit being the same appearing in the record book. The original and duplicate will be sent to the person on whom the order is made, who will furnish the purchaser with the duplicate that should accompany the drugs, one copy will be sent to each of the provincial revenue agents of the buyer's province and the seller's province for checking against their respective record books, and the remaining copy filed. If the order form is brought personally by the registrant, the file copy should bear the notation "Personal", and if brought by a representative, he

should sign the file copy in order to get delivery of the original and duplicate copies mentioned above. The provisions of this article shall apply to domestic purchases made by the Purchasing Agent and by national, provincial, municipal or city officials in their official capacity.

SEC. 35. *Alterations.*—No alteration, erasure, or change of any description may be made in any order by any person, after approval by the Collector of Internal Revenue. If for any reason, a dealer could not fill an order for narcotic drugs duly approved by the Collector of Internal Revenue, the dealer shall return both copies of the order to the Bureau of Internal Revenue within fifteen days from the date of approval of the said order, with a statement of the reason for such failure. This obligation, however, shall devolve upon the purchaser in case the opium order duly approved by this Office is presented personally by him or through his representative to the dealer who is unable to fill the same. Should the person on whom an order for narcotic drugs is made, be unable to supply the quantity ordered, he shall notify this Office in writing of the amount available which in no case should be more than the original quantity approved, and return both copies to this Office for the necessary corrections. Upon receipt, the changes should be noted in all five copies of the order.

SEC. 36. *Procedure in case of loss.*—When narcotic drugs are lost by theft, or otherwise lost or destroyed in transit, the consignee shall immediately file with the Collector of Internal Revenue a sworn statement of the facts, including a list of the narcotic stolen, lost or destroyed, and documentary evidence that the local authorities were notified. A copy of the sworn statement shall be retained and filed with the narcotic records of the consignee. A loss in transit does not authorize a vendor to duplicate a shipment on the same order form. A separate order form covering each and every shipment of narcotic is required.

SEC. 37. *Filling of an Emergency Order.*—In cases of emergency where life or health is endangered an order in any form duly signed by the purchaser may be sent to the dealer who may supply the kind and quantity of the narcotic drugs ordered. The dealer shall then prepare a signed statement fully explaining the circumstances of the case and submit said statement, together with the regular opium order (B. I. R. Form No. 26.01), in quintuplicate properly accomplished by the purchaser immediately after receiving the drugs to the Collector of Internal Revenue not later than the business day following the day the order was filled, if in the City of Manila or within a reasonable time, if in the provinces. The disposition of the copies of the opium order is the same as that outlined in section 34 hereof, except that one copy will be sent to the purchaser and another copy to the dealer who filled the order. Should such an explanation be unsatisfactory or should there be an

indication of an abuse of this privilege, the corresponding action will be taken by the Collector of Internal Revenue.

SEC. 38. *Returned goods*.—A person registered in any class may return narcotics to the person from whom obtained on an order form of the latter addressed to the former, who shall not be considered a wholesale dealer by reason thereof, and approved by the Collector of Internal Revenue. The order form should, however, contain a notation that the drugs therein described are merely returned goods.

SEC. 39. *Importation of Narcotic Drugs*.—Narcotic drugs may only be imported under a permit issued by the Collector of Internal Revenue pursuant to an application therefor, and after determination by the said Collector that the quantity requested in the application is necessary to provide for, and will be applied to, medical and legitimate uses only. An exception to so much of this rule as requires a permit may be made in the case of an emergency which, in the judgment of the Collector, so affects the welfare of all or a large proportion of the population as to justify such extraordinary action. No importation by mail shall be permitted.

Application for importation of narcotic drugs should be made in writing stating the name and address of the exporter, the kind and quantity to be imported, the stock on hand of the items being imported, the name and address of the importer, and their current S-5-I tax-receipt. Only upon receipt of a reply from the Collector of Internal Revenue shall the importer accomplish B.I.R. Form No. 26.08.

SEC. 40. *Who may import*.—In exercising the powers and discharging the duties conferred and imposed upon him by law with respect to the importation of narcotic drugs, the Collector shall take such action as in his opinion will effectuate the intent and purpose of the law. In determining whether any applicant shall be permitted to import narcotics, the Collector shall consider the character and standing of the applicant, his production facilities and trade connections whether there is reasonable probability that he will apply the narcotic drugs imported by him to medical and legitimate purposes, whether better quality of narcotic drugs, or any other factors which the Collector deems appropriate to consider in carrying out the policy mentioned. In the case of new applicants, the Collector shall also consider whether the allotments to them of shares in the amount of narcotic drugs determined by him to be necessary for medical and legitimate uses would probably have the effect of reducing or rendering uncertain the supply of narcotic drugs available to other importers already engaged in the importation of narcotic drugs as to endanger the efficient administration of the Philippine Narcotic Law.

SEC. 41. *Preparation of Import Certificate*.—The import certificate shall be prepared in sextuplet in

B. I. R. Form No. 26.08, but such certificate shall not be valid unless signed by the Collector. Import certificates shall be serially numbered, the six copies of a given import certificate all to bear the same serial number. Each copy of the certificate shall have printed thereon the disposition to be made thereof thus: the original (pink)—“Copy for the exporter through the importer; duplicate (blue) “Copy for the importer to be presented to the Bureau of Customs”; triplicate (yellow) “Copy for the competent authority of the exporting country”; quadruplicate (green) “Copy for the Philippine Consulate”; quintuplicate (orange) “Copy for the Bureau of Customs; sextuplet (white) “File copy”.

Each certificate shall bear a notation to the effect that the Collector is satisfied that the consignment proposed to be imported is required for legitimate and medical or scientific purposes. Each certificate shall also be dated and shall certify that the importer named therein is permitted under the provisions of the Philippine Narcotic Law, to import, thru the port named, one shipment of not to exceed the specified quantity of narcotic drugs. All import certificates issued shall be entered in a register kept by the Collector for that purpose. No import certificate shall be altered or changed by any person after being signed by the Collector, and any change or alteration upon the face of the import certificate after it shall have been signed by the Collector, shall render it void and of no effect. Import Certificates are not transferable.

SEC. 42. *Manner of approval*.—Upon receipt of B. I. R. Form No. 26.08 accompanied by the letter mentioned in section 39, the same if correctly accomplished, shall be approved by the Collector by executing the certificate portion of all the copies of the form. The six copies shall be signed by the Collector or his duly authorized representative and and facsimiles of signatures shall not be used.

SEC. 43. *Disposition of copies of Import Certificates*.—The original copy, together with the duplicate, shall be transmitted to the importer who will retain the duplicate copy on file as his record of authority for the importation and transmit the original copy of the permit to the foreign exporter. The foreign exporter will submit the original copy of the import certificate to the proper governmental authority in the exporting country (if required as a prerequisite to the issuance of an export authorization). The triplicate copy shall be forwarded to the proper governmental authorities of the exporting countries. The quadruplicate copy shall be forwarded to the Philippine consulate nearest the state or country of exportation. The quintuplicate shall be forwarded to the Commissioner of Customs. The sextuplet copy of the import certificate shall be retained on file in the office of the Collector.

SEC. 44. *Effect of Permit to Import.*—An import certificate or special permit duly signed and issued shall be authority to import, by the importer named therein, one shipment only not to exceed the maximum quantities of the narcotic drugs specified in the import certificate or special permit from a specified foreign exporter, said shipment to be made and received in the country on or before the date indicated in the import certificate or special permit unless for good cause shown, the Collector allows a longer period within which the shipment is to be made. Partial shipments will not be allowed.

When the importation has been effected or when the period fixed for importation has expired, the copy of the export authorization sent by the competent authority of the exporting country, should be returned specifying the amount of narcotic drugs actually received or that no import has taken place.

If the shipment made under the import certificate or special permit is greater than the maximum amount of narcotic authorized to be imported under the import certificate or special permit as determined by the customs officer, such difference shall be seized and forfeited to the Government. If the shipment is less than the maximum amount authorized to be imported under the import certificate or special permit as determined by the customs officer, the balance of the allotment will remain available to the importer pursuant to such import certificate or special permit as are requested and issued during the remainder of the calendar year to which the allotment is applicable.

SEC. 45. *Cancellation of Import Certificate and Special Permit.*—If on the date an import certificate or special permit expires the narcotic drugs listed therein have not been received in the Bureau of Customs, the import certificate or special permit is automatically cancelled and no subsequent importation of narcotic drugs by virtue of the said cancelled import certificate or special permit shall be allowed. Any narcotic drug received in the Bureau of Customs after the date of expiration of the import certificate or special permit previously authorizing its importation into the Philippines shall be returned immediately to the exporter at the expense of the importer. And import certificate or special permit may be cancelled after being issued, at the written request of the importer, stating the reasons for such cancellation.

SEC. 46. *Importation of Exempt Preparations.*—Persons who wish to import preparations and remedies specified in section 72 shall submit B. I. R. Form No. 26.04 in sextuplet. If approved, the Collector of Internal Revenue or his duly authorized representative will sign it by executing the permit portions of all copies of the form. The disposition of the copies shall be in accordance with the notation marked on each copy.

SEC. 47. *Forfeiture of a shipment of Narcotic Drugs.*—A shipment of narcotic drugs may be forfeited under any of the following grounds:

(1) Failure of the importer to obtain an import certificate or special permit from the Bureau of Internal Revenue before sending his order for the said narcotic drugs.

(2) Unauthorized alteration or erasure on the import certificate or special permit or failure of the shipment to correspond with the terms and conditions embodied in the said certificate; or

(3) Importation of narcotic drugs in excess of the quantity authorized in the import certificate or special permit, in which case, the excess shall be subject to forfeiture.

SEC. 48. *Duties of Importer.*—Upon receipt of the narcotic drugs so ordered in the Bureau of Customs, the importer shall present to the Commissioner of Customs his duplicate copy of the import certificate or special permit as his authority to take delivery thereof. It shall be the duty of the importer to notify in writing the Collector of Internal Revenue within 10 days from the date of his receipt from the Bureau of Customs of the narcotics ordered by him, furnishing the following data: the serial number of the import certificate or special permit covering the particular shipment received by him, the date of clearance from the customshouse, the import entry number, the name of the person from whom imported, country from which imported and the kind and quantity of the narcotic drugs received by him.

SEC. 49. *Exportation of Narcotic Drugs.*—No person shall in any manner export or take out of the Philippines any narcotic drug, nor shall any carrier receive for exportation, or export or carry out of the Philippines any narcotic drug, unless and until a permit in due form, to export the narcotic drug in each instance shall have been issued by the Collector of Internal Revenue.

A dealer desiring to export narcotic drugs shall present to the Collector of Internal Revenue an import certificate or permit (and a translation thereof if in a foreign language) or a certified copy of any such license or permit issued by competent authorities in the country of destination, or other documentary evidence deemed adequate by the Collector showing that the merchandise is consigned to an authorized permittee, that it is to be applied exclusively to medical and legitimate uses within the country of destination, that it will not be re-exported from such country, and that there is an actual shortage of and a demand for the merchandise for medical and legitimate uses within such country. Verification by Philippine consular officials of signatures on foreign import license will be necessary in case of doubt.

Each application to export shall show the exporter's registry number and current S tax-receipt and shall show the name and detailed description



of the narcotic drug or preparation desired to be exported, the net quantity thereof, the number and size of packages or containers, the name and quantity of the narcotic drug contained in any preparation being stated. The application shall include the name, address, and business of the consignee, the foreign port of entry, the port of exportation, the approximate date of exportation, the name of the exporting carrier or vessel (if known, or if unknown it should be stated how shipment will be made, exports of narcotic drugs by mail being prohibited). The application shall be signed by the exporter, or by his duly authorized representative, and shall contain the address from which the drugs will be shipped for exportation. The exportation, however, of heroin is hereby prohibited.

SEC. 50. *Disposition of copies of Export Permit.*—If, from the facts presented in the application, the Collector finds it proper to permit the requested exportation, an export permit shall be prepared in sextuplet in the office of the Collector, each of which shall be marked as to disposition and distributed in accordance with the following purposes: the original, together with the duplicate copies, shall be transmitted to the exporter, the original to accompany the shipment and the duplicate to be retained by him as his record of authority for the exportation; the triplicate to be forwarded to the office in the country of destination which issued the import certificate or other documentary evidence upon which the export permit is founded; the quadruplicate to be forwarded to the Philippine consulate nearest the state or country of importation; the quintuplicate to be forwarded to the Commissioner of Customs; and the sextuplet to be retained on file in the Office of the Collector.

SEC. 51. *Special conditions relative to Export Permits.*—Each export permit shall be serially numbered and predicated upon a separate import certificate or documentary evidence, and not more than one shipment shall be made thereon. All export permits shall be entered in a register kept for the purpose. Export permits are non-transferable.

An export permit shall not be valid after the date specified therein, which date shall conform to the expiration date specified in the supporting import certificate or other documentary evidence upon which the export permit is founded, but in no event shall the date be subsequent to three months after the date of the permit issued. Any unused export permit shall be returned by the permittee to the Office of the Collector for cancellation.

No export permit shall be issued for the exportation of any narcotic drug to any country when the Collector has information to show that the estimates submitted with respect to that country for the current period, under Article 5 of the Narcotics Limitation Convention of 1931 have been, or considering the quantity proposed to be imported

will be exceeded. If it shall appear, through subsequent advice received from the Permanent Central Opium Board, that the estimates of the country of destination have been adjusted to permit further importation of the narcotic drug, an export authorization may then be issued, if otherwise permissible.

On the completion of the export or on the expiry of the time limit fixed therefor, the copy of the import certificate issued by the Government of the importing country shall be returned, specifying in the endorsement, the quantity actually exported or that no export has taken place.

SEC. 52. *In transit shipments.*—No shipment of narcotic drugs from one country to another shall be allowed to pass any port of the Philippines unless it is accompanied by an export authorization issued by the proper authorities of the exporting country, and it shall be the duty of the Collector of Customs of the port through which such shipment passes to demand the exhibition of the export authorization covering the same and to note on any convenient space therein the fact that the said authorization has been exhibited to him.

Articles in transit, manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the Commissioner of Customs that they are non-narcotic, shall be detained and subjected at the carrier's risk and expense for examination as may be necessary to determine whether they are of a narcotic character. To avoid inconvenience, the carrier should not accept in transit shipments of such articles unless accompanied by properly verified certificates of the shippers, specifying the items in the shipment and stating whether they are narcotic or not.

SEC. 53. *Duties of Customs Officer.*—Upon the receipt in the Bureau of Customs of a package of imported narcotic drugs, and before the delivery thereof to the importer, the Commissioner of Customs, or his duly authorized representative, shall examine the contents of the package thereof and verify the same against his copy of the import certificate or special permit issued by the Bureau of Internal Revenue noting the result of such verification upon the said copy of the import certificate or special permit which he should return to the Collector of Internal Revenue during the first ten days of the month following the receipt of the verified shipment of the narcotic drugs.

If the narcotic drugs have not arrived within the period specified in an import certificate (B. I. R. Form No. 26.08) and special permit (B. I. R. Form No. 26.04), it shall be the duty of the Bureau of Customs to return within ten days after the date of expiration the expired copies with the corresponding notation. The Bureau of Customs shall cause such arrangements to be made as will insure the safe-keeping of the narcotic drugs while in the Customs store.

No delivery of narcotic drugs to the importer from the customhouse shall be permitted until the Commissioner or his representative shall be satisfied and shall note on the delivery permit, after personal examination, that the importer has taken all proper precautions for the safe transportation of the narcotic drugs from the customhouse to the importer's premises and that the internal revenue tax mentioned in section 12 has been paid.

It shall be the duty of the Commissioner of Customs or his duly authorized representative to return an export authorization to the Bureau of Internal Revenue during the first ten days of the month following that in which the narcotic drugs listed therein have been exported, with his notation as to the date on which the shipment left the country, the name of the vessel on which the shipment was made, and the export entry number of such shipment.

SEC. 54. *Discontinuance of Business.*—Holders of S-3, S-4 and S-5-I and S-5-C tax-receipts before retiring from business shall inform the Collector of Internal Revenue of their intention to do so, and report the kind and quantity of narcotic drugs that they may still have in their possession. Before actually retiring from business, the retiring taxpayer shall effect the transfer of his stock of narcotic drugs to another pharmacist possessing an S-3, S-4, S-5-I S-5-C tax-receipt who should execute an order on B.I.R. Form No. 26.01, addressed to the retiring pharmacist. The order which should contain a complete list of the kind and quantity of the narcotic drugs to be transferred shall then be forwarded to the Collector of Internal Revenue for approval. If the narcotic drugs cannot be transferred for lack of a transferee, the retiring pharmacist shall deposit his stock of prohibited drugs if in Manila and Quezon City, with the Opium Custodian Committee, if in the province with the Provincial Commander, Philippine Constabulary of the province in which he has his place of business. All unused order forms should be returned to the Collector of Internal Revenue for cancellation.

In case an S-3 tax-receipt has been issued in the name of a drugstore and opium orders are filled only for and in its name by a pharmacist in its employ, the owner of the drugstore shall, upon the resignation of the said pharmacist, notify the Collector of Internal Revenue of this fact and state the name of the new pharmacist whom he has employed and authorized to order and dispense prohibited drugs for and in the name of his drugstore. The incoming pharmacist should assume responsibility of the balance of narcotic drugs received from the outgoing pharmacist. If the drugstore retires from the business covered by an S tax-receipt the procedure outlined in the next preceding paragraph shall be strictly observed.

SEC. 55. *Filing of Orders.*—The original shall be filed and preserved for a period of five years by the seller. The duplicate shall be kept on file by the purchaser for a like period.

Any order form which is improperly executed or mutilated so as to make it unusable, shall not be destroyed, but all copies shall be forwarded to the Collector for cancellation.

SEC. 56. *Lost or stolen order forms.*—Whenever any used or unused order forms are stolen from, or lost by, any person registered under the Narcotic Law, he shall immediately, upon discovery of such theft or loss, report the same to the Collector of Internal Revenue stating the serial number of the forms stolen or lost. If an entire book of order forms is lost or stolen, and the registrant is unable to state the serial numbers of the order forms contained therein, he shall report the theft or loss to the Collector in lieu of the numbers of the forms contained in such book, the name and address of the registrant, and the approximate date of purchase thereof. If any unused order form reported stolen or lost is subsequently recovered or found, the Collector of Internal Revenue shall be notified thereof.

SEC. 57. *Government Officials required to use Order Forms.*—Exempt officials mentioned in section 2(i) who purchase narcotic drugs from local firms, shall secure opium orders (B. I. R. Form No. 26.01) and use them in the purchase of such drugs in the manner prescribed in section 33 hereof.

#### CHAPTER IV

##### EXEMPT OFFICIALS

SEC. 58. *Exempt Officials.*—Officials and employees of the national, provincial, city or municipal governments or any political subdivisions thereof, who in the exercise of their official duties engage in any of the activities herein described, are not thereby required to register, or provide themselves with Schedule S tax-receipts nor pay the internal revenue taxes when they compound or produce preparations containing narcotic drugs, but their right to such exemptions shall be evidenced as hereinafter provided. They shall, however, keep records of all transactions in narcotic drugs as provided in section 7.

SEC. 59. *Military Officers.*—On or before January 1 of each year, the Surgeon General of the Armed Forces of the Philippines shall furnish the Collector of Internal Revenue, with a list showing the names, addresses, and official status of officers (preferably pharmacists, physicians, dental surgeons and veterinarians) authorized to obtain narcotic drugs for official use. In case of new assignments, amendatory lists showing additions to, eliminations from, or other changes to be made in previous lists will also be furnished. With respect to procurement of narcotic drugs and



keeping of records, (See sections 33, 39 and 71).

SEC. 60. *Civil Officers*.—Each national, provincial, or city or municipal officer of the Government who is engaged in any activity mentioned in the Philippine Narcotic Law and who claims exemption from registration and tax under the law shall file with the Collector a certificate from a superior official showing the official status and official address of the person claiming exemption. In the case of transfer of station or separation from the service, he shall notify and inform the Collector of the balance of the narcotic drugs under his responsibility.

SEC. 61. *Orders and Prescriptions*.—Orders and prescriptions for taxable narcotic drugs and preparations prepared or issued by exempt officials as such shall be prepared on official order forms (B. I. R. Form No. 26.01) in the former and in the case of prescriptions, shall be prepared on official prescription pads if such pads are provided, or otherwise, on official stationery, and shall show besides the requirement mentioned in section 66 the name, title and official address of the person issuing the same, and shall contain a notation on its face "Issued in my official capacity".

If an official is engaged in a private business or privately practices a profession in which narcotics are manufactured, produced, compounded, sold, dealt in, dispensed, prescribed, administered, or given away, such official shall register and pay the internal revenue tax for such private activity, and the narcotics for such private purposes shall be secured upon regular order forms.

Officers of the medical corps of the Armed Forces, in the course of official medical treatment of army personnel, and members of their official families entitled to receive such treatment, are required to issue prescriptions for these patients which may call for narcotic drugs or preparations. Under circumstances where the drug or preparation required by the patient for medical use cannot be furnished from official stocks, it is necessary that it be obtained pursuant to the official prescription from a drugstore duly qualified by registration under the Philippine Narcotic Law to fill narcotic prescriptions.

Such prescriptions, issued in the course of official professional practice only, and prepared on official blanks or stationery and otherwise meeting the requirements of the Narcotic Regulations relating to narcotic prescriptions, may be filled by a duly registered druggist although they do not bear a registry number and current S tax-receipt of the issuing practitioner; provided that they bear the signature, title and corps of the issuing medical officer and the notation "Issued in my official capacity".

This procedure shall not apply in the case of prescriptions written by an army medical officer in the treatment of a private, i.e. a patient not entitled to receive medical treatment from the phy-

sician in the latter's capacity as a service medical officer. In prescribing and dispensing narcotic drugs to such private persons, the officer is subject to all the requirements of the Philippine Narcotic Law, including registration and payment of tax, as are imposed upon other physicians conducting private medical practice.

Prescriptions issued by exempt officials shall be filled only by registered retail dealers who will be held liable for filling an improperly prepared prescription under section 3 of the law. After filling, orders and prescriptions of exempt officials shall be filed with the regular narcotic orders and prescriptions.

SEC. 62. *Enforcement Officers*.—Customs agents, inspectors of the Bureau of Health in connection with their duties are entitled to procure from any person registered under the law, samples of narcotics, and registrants may lawfully furnish to any such persons for the purpose stated the required samples, taking a receipt therefor, and furnishing the Collector with a copy thereof.

SEC. 63. *Ocean vessels*.—Subject to a determination by the Collector of Internal Revenue of the necessity and propriety in each case, ocean-going vessels and commercial air transport of foreign registry engaged in the international trade may purchase narcotic drugs in reasonable quantities for stocking medicine chests and dispensaries and for stocking first aid packets or medicine chests on life rafts carried aboard such craft. Narcotic drugs may be purchased in the case of ocean vessels, by the physician or surgeon employed in such vessel who should be duly licensed to practice his profession in some state or country; in the case of air transports by the chief medical officer thereof, through special opium order forms to be furnished by the Collector of Internal Revenue, after an application has been filed. If the order covers replenishment units, after the initial supply, the application shall state in detail the circumstances which make replenishment necessary, including an accounting for all narcotics previously disposed of. The Collector may require any further explanation of, or information concerning, any order that he may deem necessary.

#### CHAPTER V

##### RETAIL DEALERS, PRACTITIONERS, DEALERS IN EXEMPT PREPARATIONS AND LABORATORIES

SEC. 64. *Who may issue prescriptions*.—A prescription for narcotic drugs may be issued only by a physician, dentist, veterinary surgeon, or other practitioners who have duly registered and paid their current S-2 privilege tax or by an exempt official.

SEC. 65. *Purpose of issue*.—A prescription, in order to be effective in legalizing the possession of unstamped narcotic drugs must be issued for legitimate medical purposes. The responsibility

for the proper prescribing and dispensing of narcotic drugs is upon the practitioner, but a corresponding liability rests with the druggist who fills the prescription. An order purporting to be a prescription issued to an addict or habitual user of narcotics, not in the course of professional treatment but for the purpose of providing the user with narcotics sufficient to keep him comfortable by maintaining his customary use, is not a prescription within the meaning and intent of the law, and the person filing such an order, as well as the person issuing it, shall be charged with the violation of the law.

Prescriptions issued regularly, calling for narcotic drugs or preparations containing narcotic drugs to be administered upon definite patients of doubtful authenticity, should not be honored or filled, inasmuch as such prescriptions are undoubtedly issued for the benefit of drug addicts and therefore illegal. Patients requiring the regular use of narcotic drugs allegedly for therapeutical treatment and for the relief of pain not caused by addiction to opium or other narcotic drugs, should present a certificate of the Board of Medical Examiners to the effect that they really need such treatment. However, they should obtain their supply of narcotics through an opium order signed by their attending physician and approved by the Collector, and not through medical prescriptions.

A monthly clinical chart in duplicate should be submitted to the Collector of Internal Revenue showing the date and hour of disposal, the quantity used and a summary of the amount used during the month.

Prescriptions calling for narcotic drugs are supposed to be issued for definite patients and for the purpose of giving them instant relief from pain. Accordingly, a prescription sent through the mails should not be honored, or filled, inasmuch as their evident purpose is to enable the sender to keep in stock narcotic drugs to anticipate future needs. Orders of this kind should be made in an Opium Order form duly approved by this office.

SEC. 66. *Prescription requirements.*—Every prescription for narcotic drugs or medicinal preparations issued by physicians, dentists and veterinarians shall show the exact quantity of the drugs prescribed, the numbers of the current S tax-receipts, the location of the offices of such persons and the names and addresses of the persons for whom prescribed. Such prescriptions shall be written personally, dated and signed by the practitioner issuing the same. All prescriptions shall be dated as of and signed on the day when issued and shall bear the full name and address of the patient, the name, address, registry and current S-2 tax-receipt of the practitioner. A physician may sign a prescription in the same manner as he would sign a check or legal document, as for instance, "J. G. Reyes", "Jose G. Reyes", or "Jose Garcia Reyes". Prescriptions should be written

in ink or indelible pencil or typewritten and signed personally by the practitioner. The duty of preparing prescriptions is upon the practitioner, and he is liable to the penalties provided by law in case of failure to insert the information required by law. A corresponding liability rests with the druggist who fills the prescription not prepared in the form prescribed by law.

A physician may at any time and in one prescription in which the patient's name should be indicated prescribe narcotic drugs not to exceed the following:

Morphine Amps. or hypo. tabs. $\frac{1}{4}$ gr. (.0162 gm) .....	3
Morphine Amps. or hypo. tabs. $\frac{1}{6}$ gr. (.0108 gm) .....	3
Pantopon Amps. or hypo. tabs. $\frac{1}{3}$ gr. (.0217 gm) .....	3
Codeine hypo. tabs. $\frac{1}{2}$ and $\frac{1}{4}$ gr. ....	6
Pulmusan Ampules .....	6
Morphine Amps. or hypo. tabs. $\frac{1}{8}$ gr. (.008 gm) .....	3
Codeine and demerol tabs. ....	10
Demerol Ampules .....	3
Ampule or H. T. containing $\frac{1}{4}$ gr. morphine or any of its salts .....	3
Ampule or H. T. containing codeine or dionine or any of their salts .....	6
Ampule or hypodermic tablets containing synthetic narcotic drugs such as demerol, dolophine, dolosal .....	3
Tablets for oral administration containing codeine .....	10
Tablets for oral administration containing synthetic narcotic drugs—demerol, dolophine, dolosal .....	10
Ampules containing other kind of narcotic drugs except papaverine .....	3
Ampules containing papaverine, an isoquinoline derivative of opium .....	10
Tablets for oral administration containing papaverine .....	20

SEC. 67. *Who may fill.*—A prescription for narcotic drugs may be filled only by a registered retail dealer, or any exempt official. No dealer shall refill a prescription for narcotic drugs or medicinal preparations containing them or fill a similar prescription which he suspects to have been fraudulently issued or obtained.

As a general rule, the partial filling of narcotic prescriptions is not permissible. If, however, a dealer is unable to supply the quantity called for in a prescription and an emergency arises, he may supply a portion of the drugs called for by the prescription, provided that he makes a suitable notation on the face of the prescription of the quantity furnished and the reason for not supplying the full quantity on the back of the prescription and advises the issuing practitioner

thereof. No further quantity shall be supplied except upon a new prescription.

The furnishing of narcotics pursuant to telephone advice of practitioners is prohibited, whether prescriptions covering such orders are subsequently received or not, except that in an emergency a druggist may deliver narcotics through his employee or responsible agent pursuant to a telephone order, provided that the employee or agent is supplied with a properly prepared prescription before delivery is made, which prescription shall be turned over to the druggist and filed by him as required by law.

SEC. 68. *Preservation of filled prescriptions.*—The dealers filling prescriptions for narcotic drugs shall keep them in a separate file in such manner as to be readily accessible to inspection by investigating officers, for a period of not less than five years.

SEC. 69. *Labels on containers.*—The dealers filling a prescription shall affix to the package a label showing his name and registry number, the serial number of the prescription, the name and address of the patient, the name, address and registry number of the practitioner issuing the prescription.

SEC. 70. *Records to be kept by Dealers.*—All dealers registered under the provisions of these regulations and exempt officials mentioned in Chapter IV shall be held strictly responsible for any narcotic drugs or any preparation containing them dispensed by themselves or their employees. For each kind and each size of narcotic drugs or preparations, the dealer must keep a separate record consisting of debit and credit accounts. The drugs or preparations on hand, if any, and those subsequently received shall constitute the debit entries in the record. The drugs or preparations sold or disposed of shall constitute the credit. A separate line shall be used for each entry which must be made legibly in ink and in chronological order. At the end of each month a balance shall be struck showing in red ink the stock on hand of each particular kind of narcotic drugs or preparations, the size of the containers thereof, and the total narcotic contents of all the packages covered in the entry, which shall be carried forward to the account for the succeeding month. No balance however, need be stricken off for the succeeding month, if after the last balance no sale or purchase of the particular narcotic drug mentioned in the corresponding account has been made. Such records, before using, shall be presented to the Collector of Internal Revenue or his duly authorized representative and shall be kept for a period of five years after the date of the last entry for inspection by investigating officers. Before any record book is presented for registration, there shall be placed on the front cover by the owner thereof an identification as to the kind of record book, registry number, the name and address of the owner, and his kind of business. The pages shall be serially unnumbered in a permanent and legible

manner. Every record book shall be serially numbered and if approved the following authentication shall be made by the approving officer on the reverse side of the front cover thereof.

"This \_\_\_\_\_, Volume No. \_\_\_\_\_ with \_\_\_\_\_ pages or sheets, is approved on this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, for the purposes of Narcotic Drug Regulations No. \_\_\_\_\_.

Signature

Designations of Officers

If the book, register, or record presented for approval is a continuation of previous books, registers, or records, besides the foregoing authentication, the following notation shall be added to the authentication:

"Volume No. \_\_\_\_\_ of this \_\_\_\_\_ was approved on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Signature

Designations of Officers

(a) *Debit entries*—Each entry of narcotic drugs or preparations received shall be made on the date of receipt of the drugs or preparations and shall show:

1. Date of receipt of the drugs or preparations,
2. Number of permit from the Collector of Internal Revenue,
3. Name of the person from whom the drugs or preparations were received, and
4. Quantity of drugs or preparations received.

(b) *Credit entries.*—Each entry of narcotic drugs or preparations disposed of shall be made within twenty-four hours after disposal of the drugs or preparations and it shall show:

1. Date and hour of disposal,
2. Authority for disposal, whether by permit or by prescription; if by prescription, name and address of the physician,
3. Number of the permit issued by the Collector of Internal Revenue or the date of prescription, and the name and number of the S tax-receipt of the person issuing the prescription,
4. Name and address of the person to whom disposed of,
5. Quantity of drugs or preparations disposed of, and
6. Daily balance in case transactions have been effected during the day.

SEC. 71. *Records to be kept by Practitioners.*—Practitioners may dispense narcotic drugs to bona fide patients pursuant to the legitimate practice of their professions without the issuance of prescriptions provided that the drugs are purchased through

an opium order duly approved by the Collector and provided further, that such practitioner shall keep a record of such drugs received, dispensed, or distributed, showing the amount received, the person from whom the narcotic drugs were ordered, the date of receipt, the amount dispensed or distributed, the date and the name and address of the patient to whom such drugs are dispensed or distributed and the diagnosis or a brief explanation for such use.

SEC. 72. *Exempt preparations.*—Under section 7 of the Narcotic Drugs Law, persons dealing in certain preparations and remedies are conditionally exempt from liability under the other sections of the law, although subject to certain requirements.

Preparations designed for internal use to be exempt shall not contain more than two grains of opium (0.1296 gram), or more than one-fourth of a grain (.0162 gram), of morphine, or more than one-eighth of a grain (.0081 gram) of heroin, or more than one grain (.0648 gram) of codeine, or any salt or derivative of any of them in one fluid ounce, (29.57 cc.), or, if a solid or semi-solid preparation, in one avoirdupois ounce (28.3495 grams); or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salt or alpha or beta eucaine or any of their salts or any synthetic substitute for them. The preparation shall contain active medicinal drugs other than narcotics in sufficient proportion to confer upon the preparation valuable medical qualities other than those possessed by the narcotic drug alone. Use for aurai, nasal, ocular, urethral, or vaginal purposes is not regarded as external use, and therefore, preparations manufactured or used for such purposes containing more than the percentages of narcotic drugs as above indicated are not within the exemption.

Household remedies containing negligible quantities of narcotic drugs, except paregoric mixture (syn. Anti-Coleric Mixture of Dr. Bautista) shall be sold only by duly registered pharmacists, or by persons, having in their employ a registered pharmacist, provided that they have the necessary written permit issued therefor by the Board of Pharmaceutical Examiners, and they possess the required tax-receipt. Paregoric mixture (syn. Anti-Coleric Mixture of Dr. Bautista) may be sold by persons who, not being registered pharmacists, have obtained from the Board of Pharmaceutical Examiners a special permit therefor, and have provided themselves with the necessary S-1 tax-receipt.

Importers, manufacturers, producers, or compounders of preparations and remedies mentioned in this section who sell to authorized dealers for the purpose of resale shall, however, pay the fixed tax of seventy-two pesos a year.

SEC. 73. *Restrictions on dispositions.*—A preparation to be exempt from the internal revenue tax and requirements pertaining to taxable narcotics shall be manufactured, sold, distributed, given away, dispensed, or possessed as a medicine, and not for the purpose of evading the intention and provisions of the law. A manufacturer, producer or compounder may produce and sell as exempt only preparations readily capable of use for claimed medical purposes, and sales thereof, if not to consumers, shall be made only to persons provided with S tax-receipts. Sales made to customers, either by manufacturers or dealers, shall be made only in such quantities and with such frequency to the same purchaser as will restrict their use to the medical purpose for which intended.

Orders for exempt preparations are not required to be on any particular form, but an order from a dealer shall not be honored by a manufacturer or other dealer unless it bears the current S tax-receipt of the dealer giving the order.

When orders for exempt preparations are taken by a traveling salesman, the salesman shall ascertain the current S tax-receipt of the purchaser. The order shall not be filled by the manufacturer or vendor unless she knows the purchaser's S tax-receipt.

Preparations and remedies which are within the exemption may be sold with or without prescriptions, and a prescription for such preparation may be refilled provided the preparation is furnished in good faith for medical purposes only. The filling or refilling of narcotic prescriptions calling for more than one exempt preparation or remedy further reduced or diluted by the addition of non-narcotic medicinal agents is authorized provided, that the preparation is furnished in good faith for medicinal purposes.

SEC. 74. *Records required.*—Every manufacturer, producer, compounder, or vendor (including dispensing physicians) of exempt preparations shall record all sales, exchanges, gifts or other dispositions, the entries to be made at the time of delivery. The requirement that such records are maintained as herein provided, to absolute, independent, and not merely a condition precedent to securing the exemption granted by the last cited section to manufacturers, producers, compounders or vendors (including dispensing physicians), of exempt preparations. Failure to keep such record is in itself a violation of the law and regulations and renders the manufacturer, producer, compounder or vendor (including dispensing physicians) liable to the penalties set forth in these regulations. Separate records shall be kept of dispositions to registrants and to consumers. The record of dispositions to registrants shall show the name, address, and registry number of the registrant to whom disposed the name and quantity of the preparation, and the date upon which delivery to the registrant, hi

agent or a carrier is made. The record of dispositions to consumers shall show the name of the recipient, his address, the name and quantity of the preparation, and the date of delivery.

The records shall more or less be in the following manner:

### Record of Dispositions to Registrants

## Name of Preparation

[illegible]

### Record of Dispositions to Consumers

## Name of Preparation

[illegible]

SEC. 75. *Returns Required.*—Each compounder of exempt preparations shall render semi-annual and annual returns on or before the tenth day of the month following the period to the Collector of Internal Revenue substantially in the form and manner indicated below:

## Name of Exempt Preparation Produced

[illegible]

SEC. 76. *Medical Schools, Colleges and Laboratories*.—Persons registered and provided with an S-6 tax-receipt may secure their narcotic drugs through opium order forms (B. I. R. Form No. 26.01) in the manner described under section 33.

Any narcotic product or residue resulting from the use of a narcotic drug or preparation obtained upon an order form, which is desired to be retained for further research, instruction or analysis, shall be placed in a container legibly labelled with the name of the product or residue and the date produced.

Any sale of a narcotic drug or preparation by a holder of an S-6 tax-receipt will render him liable to registration and to payment of tax as a compounder, manufacturer, wholesaler as the facts may warrant and to compliance with all other requirements of the law and regulations governing sales.

They shall keep complete records of receipts, disposals, and stocks on hand of all narcotic drugs and preparations. A special record shall be kept showing the date, kind, and quantity of narcotic drug or preparation used, the particular purpose or object of such use, and the identification and



disposition of the narcotics or resulting products or residues, and manner of disposition.

Records shall be kept in the following form, which sample items as a guide.

Narcotic used				Identification and disposition of narcotics or resulting products and residues			
Date	Kind	Quantity	Purpose	Date	Products or residues	Quantity	Disposition (destroyed, retained or returned)
	Thobaine -----	1 ounce. ....	Experimental thesis .....		None	None	All residues destroyed Retained for instructional exhibit Consumed in analysis Returned to registered person desiring assay on Order Form No. ....
	Morphine -----	1 ounce. ....	Experimental thesis .....		Codeine -----	1/3 ounce. ....	
	Narcotine -----	30 grams. ....	Mineral analysis .....		None	None	
	Crude opium -----	1 pound. ....	Assay -----		Crude opium	1/2 pound. ....	

SEC. 77. *Interisland Vessels.*—Vessels engaged in trade between ports of the Philippines may obtain narcotic drugs and preparations for stocking medicine chests and dispensaries maintained on board through opium orders duly approved by the Collector. The opium order should be prepared by the physician or surgeon employed in such vessel who shall be duly registered and have paid his current S-2 tax-receipt. Records should be kept in the manner described in section 71.

#### CHAPTER VI

#### RECORDS AND RETURNS OF IMPORTERS, EXPORTERS, MANUFACTURERS, COMPOUNDERS AND WHOLESALE DEALERS.

SEC. 78. *Returns required.*—Every person registered as an importer, manufacturer, compounder, or wholesaler, shall render semi-annual and annual return on forms prescribed by the Collector of Internal Revenue which shall show all stocks on hand at the beginning and end of the period, the amounts purchased or imported, the amounts disposed of during the period specifying the amounts used for the preparation of taxable narcotics and exempt preparations, and shall be submitted to the Collector on or before the tenth day of the month succeeding that of the period for which it is rendered.

SEC. 79. *Importers and Wholesalers.*—Importers and wholesalers of narcotic drugs who also sell the same at retail shall keep separate records of their wholesale and retail sales of the said drugs. Transfers of narcotic drugs from the wholesale to the retail shall be covered by an opium permit. The records shall be in the manner prescribed in section 70 except that the debit side shall show the amount of internal revenue taxes and the official receipt number under which it was accounted for.

It shall be the duty of the importer to submit quarterly reports of the narcotic drugs imported during the quarter stating the date of receipt, the name and quantity of the narcotics received and the import certificate number.

SEC. 80. *Exporters.*—The exporter shall keep a record of all transactions in narcotic drugs and preparations in the manner prescribed in section 70, and of any serial numbers that might appear on

packages of narcotic drugs in quantities of 30 grams or more in such manner as will identify the foreign consignee. It shall be the duty of the exporter to submit quarterly reports of narcotic drugs and preparations exported during the quarter, stating the date of export and the name and address of the consignee.

SEC. 81. *Manufacturers and Compounders.*—Every manufacturer or compounder shall keep a record of all transactions in narcotic drugs in the manner prescribed in section 70 which shall also show the amount of taxes paid and the official receipt number under which they were accounted for.

Manufacturers or compounders with the exception of the manufacturers mentioned in the next succeeding paragraph, shall, before manufacturing, submit on B. I. R. Form No. 26.01 the name and quantity of narcotic drugs to be used, the name and approximate amount of resulting product, and the date of manufacture. The quantity of narcotic drugs used shall be entered on the credit side of the record on that particular drug and the resulting product of manufacture shall be entered on the debit side. Thus: if a permit is issued for the manufacture of 1,000 ampules of morphine sulphate 1/8 gr. using 8 grams of morphine sulphate powder, theoretically 1,000 ampules can be produced from eight grams of morphine sulphate, but in actual production, the resulting product is always less due to loss in sterilization and handling. If the resulting product is 950 ampules, that quantity should be the one entered in the debit side under the item "Morphine sulphate ampules 1/8 gr." and the eight grams, on the credit side under the item "Morphine sulphate powder". Any loss in manufacture and any recoverable wastes salvaged from the manufacture shall be reported.

SEC. 82. *Manufacturers of Narcotic Drugs by Extraction, Conversion, or Synthesis.*—Manufacturers of narcotic drugs mentioned in this section shall submit in detail quarterly reports on all manufacturing operations performed during the quarter, stating the name and amount of the raw materials, and the amount of the finished marketable products, standardized in accordance with U. S. P. N. F., or other recognized medical standards. Subsequent manufacture from such products,



including bottling or packing operations, shall be reported and recorded in the manner prescribed in the preceding paragraph.

Upon withdrawal of the raw materials from customs custody, the importing manufacturer shall assign to each individual container an identification mark or number by which the raw material will be associated with the lot assay and identified in the records and returns.

Upon importation of raw materials, samples will be selected and assays made by the importing manufacturer in accordance with recognized chemical producers. These assays shall form the basis of accounting for such raw materials which shall be accountable for in the terms of their alkaloid content. Where final assay data is not determined at the time of rendering return, report shall be made on the basis of the best data available, subject to adjustment, and the necessary adjusting entries shall be made on the next return.

When the factory procedure is such that partial withdrawals of raw materials are made from individual containers, there shall be attached to each container a stock record card on which shall be kept a complete record of all withdrawals therefrom.

Manufactured opium shall be reported as produced when it comes into existence in that form in which it is intended for exclusive use in further manufacture. Medicinal opium, morphine and its salts, or other alkaloid or derivatives produced exclusively for sale as such shall be reported as produced when manufacture has actually been completed and the finished marketable product ready for packing and sale. Such products shall be regarded as ready for packing and sale as soon as all processing other than mere packing and stamping has been completed. Medicinal opium, tincture, extract and other products manufactured partly for sale and partly for use in further manufacture will be reported produced as soon as manufacture is complete and they are ready either for use in further manufacture or for packing for sale.

No accumulations of morphine or other narcotic drugs in their pure or near-pure state shall be permitted to remain inactively in process. All such products nearing completion of their respective processes and approaching a condition of purity shall be carefully protected, promptly completed, and immediately transferred to finished stocks, and reported as produced.

SEC. 83. *Semi-Annual and Annual Reports.*—Holders of S-5 and S-4 tax-receipts shall submit semi-annual and annual reports to the Collector of Internal Revenue on or before the tenth day of the month following the period for which report is rendered showing the following:

1. Name of drug or preparation,
2. Number of packages,
3. Size of packages,
4. Narcotic content,
5. Stock at the beginning of the period,

6. Amount imported,
7. Amount locally purchased,
8. Amount prepared,
9. Total of 5, 6, 7 and 8. Amount available,
10. Amount sold to wholesalers,
11. Amount sold to retailers,
12. Amount used for taxable narcotic preparations,
13. Amount used for exempt preparation,
14. Amount disposed of—totals of 10, 11, 12 and 13,
15. Balance on hand at the end of the period.

## CHAPTER VII

### ADMINISTRATIVE PROVISIONS

SEC. 84. *Payment of Taxes.*—Internal revenue tax due on narcotic drugs may be paid either by stamps or by official receipts. Internal revenue tax which the taxpayer refuses or fails to pay may be reported for assessment.

SEC. 85. *Safeguarding of Narcotics.*—Narcotic drugs and preparations shall at all times be properly safeguarded and securely kept where they will be available for inspection by properly authorized agents. They shall be kept separate from the non-narcotic preparations.

Deliveries of narcotic drugs should be made by reliable persons and if sent through the mails, should be registered.

SEC. 86. *Procedure in case of loss.*—Where narcotics are lost by theft, or through breakage of the container or other accident, the person directly responsible for the safe keeping of such drugs shall make an affidavit in duplicates as to the kinds and quantities of narcotics lost or destroyed and the circumstances involved, and immediately forward the affidavit to the Collector of Internal Revenue. In case of theft, a documentary evidence that the local authorities were notified shall also be submitted. Copies of the affidavit and the documentary evidence shall be retained and filed with the other narcotic records of the taxpayer.

SEC. 87. *Undesired Narcotics.*—Undesired narcotics in the possession of a registrant may be disposed of by forwarding the same to the Collector of Internal Revenue accompanied with a statement of the name and quantity of the narcotics forwarded, the reason thereof and other pertinent data. Upon receipt by the Collector the same will be forwarded to the Opium Custodian Committee for final disposition.

Accumulated manufacturing wastes or other excess or undesired narcotics in the possession of registrants may be destroyed by such registrants in the presence of such narcotic inspectors as may be specifically authorized by the Collector of Internal Revenue. Such authorization shall be in writing and signed by the Collector. In all cases the terms of the written authorization shall be strictly followed.

SEC. 88. *Disposition of Narcotic Drugs.*—All narcotic drugs seized under the Philippine Narcotic

Law shall be forwarded to the Opium Custodian Committee for final disposition with a full report of the seizure provided that where the seizure is made by any officer in connection with an investigation which may result in criminal prosecution, the drugs so seized may be retained until it is determined that the same will not or will no longer be required as evidence; whereupon disposal thereof shall be made as provided for by law.

All heroin seized in the illicit traffic shall be forwarded to the Opium Custodian Committee for destruction.

SEC. 89. *Disposition of Surrendered Opium Order Books.*—Opium Order Books (B. I. R. Form No. 26.01 and Importation Order Books B. I. R. Form No. 26.08 and Order Book for Exempt Preparations B. I. R. Form No. 26.04) surrendered to this Office for cancellation shall be forwarded to the property custodian for destruction by burning.

SEC. 90. *Statistical Reports.*—It shall be the duty of the Collector of Internal Revenue to gather data and prepare statistical reports which may be required by the different international bodies in compliance with the different conventions and protocols to make more effective the international control on narcotic drugs.

SEC. 91. *Size of Record Books.*—Record books of importers, compounders, wholesalers and retail dealers should be approximately 17 × 11 inches and those of physicians and persons dealing in exempt preparations should at least be 14½ × 8½ inches.

SEC. 92. *Penalties.*—Persons who violate the law or fail to fulfill its requirements in any particular are liable to punishment, the maximum liability consisting of a fine not to exceed ₱5,000 or imprisonment for not more than five years or both, in the discretion of the court. However, additional punishment for habitual offenders is provided for in section 11(b), (c) and (d) of the Law.

No subsequent license to deal in narcotic drugs shall be issued to a person who has been convicted of illegal traffic in narcotic drugs.

Violations of the provisions of these regulations which are not covered by the provisions of the Law are punishable under sections 352 and 356 of Commonwealth Act No. 466.

Should the offender, however, desire to extrajudicially settle his violation of the law or regulations, he may offer as compromise an amount satisfactory to the Collector of Internal Revenue.

SEC. 93. *Violations to be reported.*—Internal revenue officers shall report to the Collector of Internal Revenue every violation of these regulations coming to their knowledge.

SEC. 94. *Date of Effectivity.*—These regulations shall take effect upon their promulgation in the *Official Gazette*.

JAIME HERNANDEZ  
Secretary of Finance

Recommended by:

J. ANTONIO ARANETA  
Acting Collector of Internal Revenue

B. I. R. FORM NO. \_\_\_\_\_

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE  
MANILA

(Name)
Registration No.
Date issued
Recorded by

# APPLICATION FOR REGISTRATION UNDER THE NARCOTIC DRUGS LAW

Date _____		
1. Name _____		
Address _____		
2. Name of business _____		
Paragraph No.	Annual Tax	Kind of Business
S-1 <input type="checkbox"/>	₱ 6.00	
S-2 <input type="checkbox"/>	6.00	
S-3 <input type="checkbox"/>	12.00	
S-4 <input type="checkbox"/>	36.00	
S-5-I <input type="checkbox"/>	72.00	
S-5-C <input type="checkbox"/>		
S-6 <input type="checkbox"/>	6.00	

INSTRUCTIONS—Show by X in one of the above squares the business to be conducted. State exact business thus: S-2 whether physician, dentist or veterinarian; in S-6 whether chemist, research laboratory, college of pharmacy or medicine, etc.

3. Name of owner \_\_\_\_\_  
If the applicant is an alien, state the name appearing on, and the number of, the landing or alien registration certificate) \_\_\_\_\_  
Nationality \_\_\_\_\_ Home Address \_\_\_\_\_

Previous residence or place of business \_\_\_\_\_

4. Other persons having joint or common interest in the business: \_\_\_\_\_

5. Name registered with the Bureau of Commerce: \_\_\_\_\_

6. Manner business was established (original organization, reorganization, or by purchase) \_\_\_\_\_

7. Name of authorized manager \_\_\_\_\_

8. Name of authorized pharmacist \_\_\_\_\_  
Sample signature \_\_\_\_\_

9. Registration certificate number and date of issue (Pharmacist or physician) \_\_\_\_\_

10. Name and address of previous employer \_\_\_\_\_

11. Show by X the nature of the application:  
☐ First application ☐ Renewal ☐ Change of ownership.

I hereby certify that the foregoing statements are true and correct.

(Signature) \_\_\_\_\_

## REPORT ON NARCOTIC DRUGS

B. I. R. Form No. \_\_\_\_\_

(Name of Firm)		(Address)										(Period covered)	Balance on hand at the end of the period	
Narcotic content	1 No. of packages	2 Size of packages	3 Sold in grams pills or tablets	4 Liquid in cc.	5 Stock at the beginning of the period	6 Amount imported	7 Amount locally purchased	8 Amount prepared	9 Total of 5, 6, 7, and 8	10 Amount sold to wholesalers	11 Amount sold to retailers	12 Amount used for taxable narcotic preparations		13 Amount used for exempt preparations
	Name of Drug or Preparation													
(Pharmacist)														

B. I. R. FORM No. 26.07

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE  
MANILA

## PERMIT TO EXPORT NARCOTIC DRUGS

(Number) \_\_\_\_\_

The Collector of Internal Revenue, being the official charged with the administration of the law relating to narcotic drugs to which the International Convention apply authorizes the exportation of the following narcotic drugs from the Philippines:

Exporter \_\_\_\_\_

Importer \_\_\_\_\_

Port of Export \_\_\_\_\_

Foreign port of entry \_\_\_\_\_

The importation of these drugs has been authorized by Official Import Certificate No. \_\_\_\_\_ dated \_\_\_\_\_ issued by \_\_\_\_\_

The exportation must be made on or before \_\_\_\_\_

Issued at Manila, Philippines, this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_.

*Collector of Internal Revenue*

By:

B. I. R. Form No. 26.04

ORDER No. \_\_\_\_\_

## ORDER FOR IMPORTATION OF EXEMPT PREPARATIONS

\_\_\_\_\_, 19\_\_\_\_

(Name of exporter)

(Address)

Through the Collector of Internal Revenue  
Manila, Philippines

SIR:

Please deliver the following non-taxable narcotic preparations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Very respectfully,

(Address)

(Name of Firm)

(Registry Number)

(Printed name of pharmacist)

(S-5-C Tax-receipt)

(Signature of pharmacist)

Special Permit No. \_\_\_\_\_

The Bureau of Internal Revenue, being the office charged with the law relating to narcotic drugs to which the international conventions apply, has approved the importation of the preparations named in this order subject to the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

through the \_\_\_\_\_

The importation of these preparations must be made on or before \_\_\_\_\_

Issued at Manila, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*Collector of Internal Revenue*

By:

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**Department of Justice**

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ADMINISTRATIVE ORDER No. 135

*September 17, 1954*

DETAILING ASSISTANT PROVINCIAL FISCAL  
RAMON G. GAVIOLA, Jr. OF BOHOL AS  
ACTING ASSISTANT PROVINCIAL FISCAL  
OF ANTIQUE.

In the interest of the public service and pursuant to the provisions of section 1680 of the Revised Administrative Code, Mr. Ramon G. Gaviola, Jr., Assistant Provincial Fiscal of Bohol, is hereby detailed to the province of Antique, there to discharge the duties of Acting Assistant Provincial Fiscal, effective immediately and to continue until further orders.

PEDRO TUASON  
*Secretary of Justice*

ADMINISTRATIVE ORDER No. 136

*October 4, 1954*

AUTHORIZING JUDGE JOSE P. FLORES OF  
ALBAY TO HOLD COURT IN LA UNION  
TO CONTINUE THE TRIAL OF THE PO-  
LITBURO CASE.

In the interest of the administration of justice and pursuant to the provisions of section 61 of Republic Act No. 296, as amended, the Honorable, Jose P. Flores, Judge of the Tenth Judicial District, Albay, is hereby authorized to hold court in the Province of La Union, Second Judicial District, for the purpose of continuing the trial of the Poliburo case entitled "The People of the Philippines vs. Elias Mana, et al." which was already begun by him and to enter judgment therein.

PEDRO TUASON  
*Secretary of Justice*

ADMINISTRATIVE ORDER No. 137

*October 2, 1954*

DESIGNATING SPECIAL ATTORNEY FELIX  
Q. ANTONIO, DEPARTMENT OF JUSTICE  
TO ASSIST THE CITY FISCAL OF MA-  
NILA IN THE INVESTIGATION AND PRO-  
SECUTION OF CASES.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Felix Q. Antonio, Special Attorney, Prosecution Division, Department of Justice, is hereby designated to assist the City Fiscal of Manila in the investigation and prosecution of the cases involving the Villa-

nueva Steamship Company, Inc., effective immediately and to continue until further orders.

PEDRO TUASON  
*Secretary of Justice*

ADMINISTRATIVE ORDER No. 138

*October 2, 1954*

DESIGNATING SPECIAL ATTORNEYS FELIX  
Q. ANTONIO AND EPITACIO PAÑGANI-  
BAN, DEPARTMENT OF JUSTICE TO AS-  
SIST THE CITY FISCAL OF MANILA, AND  
THE PROVINCIAL FISCALS OF PAM-  
PANGA, RIZAL AND ILOCOS SUR.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Messrs. Felix Q. Antonio and Epitacio Pañganiban, Special Attorneys, Prosecution Division, Department of Justice, are hereby designated to assist the City Fiscal of Manila and the Provincial Fiscals of Pampanga, Rizal and Ilocos Sur, in the investigation and prosecution of Central Bank cases involving falsification of public, official, commercial and/or private documents, counterfeiting and violations of Republic Act No. 265 (Central Bank Act), as well as the case of People vs. Lingad, et al., effective immediately and to continue until further orders.

This supersedes Administrative Orders Nos. 42, 118 and 30, dated March 16, 1953, July 17, 1953 and February 26, 1954, respectively.

PEDRO TUASON  
*Secretary of Justice*

ADMINISTRATIVE ORDER No. 140

*October 1, 1954*

APPOINTING ASSISTANT CITY ATTORNEY  
ARISTON D. FULE OF SAN PABLO CITY  
AS ACTING CITY ATTORNEY OF SAID  
CITY.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Ariston D. Fule, Assistant City Attorney of San Pablo City, is hereby appointed Acting City Attorney of said City, with compensation provided by law for the position, effective immediately and to continue until the appointment of a regular City Attorney thereof or until further orders.

PEDRO TUASON  
*Secretary of Justice*



## ADMINISTRATIVE ORDER No. 141

*October 7, 1954*

AUTHORIZING FIRST ASSISTANT CORPORATE COUNSEL SIMEON M. GOPENGCO TO SIGN VOUCHERS AND TREASURY WARRANTS DRAWN AGAINST THE APPROPRIATIONS OF THE OFFICE OF THE GOVERNMENT CORPORATE COUNSEL.

Pursuant to the provisions of sections 615 and 616 of the Revised Administrative Code, Atty. Simeon M. Gopengco, First Assistant Corporate Counsel, is hereby authorized to sign vouchers and treasury warrants drawn against the appropriations of the Office of the Government Corporate Counsel, in the absence of the present incumbent, signing as follows:

SIMEON M. GOPENGCO

*First Assistant Corporate Counsel*

JESUS G. BARRERA

*Undersecretary of Justice*

## ADMINISTRATIVE ORDER No. 142

*October 11, 1954*

APPOINTING EMILIO G. GALANG, JOSE G. BAUTISTA, AND AGUSTIN PATRICIO OF THE DEPARTMENT OF JUSTICE AS MEMBERS OF THE CLEARANCE COMMITTEE.

In the interest of the public service, the following officials under the Department of Justice are hereby appointed members of the Clearance Committee which shall investigate the records of persons applying for clearance and make recommendations thereon to the Secretary of Justice:

Emilio L. Galang, Special Prosecutor, Deportation Board;

Jose G. Bautista, Solicitor, office of the Solicitor General; and

Agustin Patricio, Chief, Identification Division, National Bureau of Investigation.

This supersedes Administrative Order No. 251, dated February 20, 1947.

PEDRO TUASON

*Secretary of Justice*

## ADMINISTRATIVE ORDER No. 143

*October 11, 1954*

DESIGNATING ASSISTANT PROVINCIAL FISCAL RAMON G. GAVIOLA OF BOHOL, TO ASSIST THE PROVINCIAL FISCAL OF ANTIQUE IN THE DISCHARGE OF HIS DUTIES.

In the interest of the public service and pursuant to the provisions of section 1686 of the

Revised Administrative Code, Mr. Ramon G. Gaviola, Jr., Assistant Provincial Fiscal of Bohol, is hereby designated to assist the Provincial Fiscal of Antique in the discharge of his duties, effective immediately and to continue until further orders.

This supersedes Administrative Order No. 135, daed September 17, 1954.

PEDRO TUASON

*Secretary of Justice*

## ADMINISTRATIVE ORDER No. 144

*October 11, 1954*

APPOINTING FIRST ASSISTANT PROVINCIAL FISCAL ALFREDO C. REYES OF QUEZON AS ACTING PROVINCIAL FISCAL OF SAID PROVINCE.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Alfredo C. Reyes, First Assistant Provincial Fiscal of Quezon Province, is hereby appointed Acting Provincial Fiscal of said province, with compensation provided by law for the position, effective immediately and to continue until the appointment of a regular Provincial Fiscal thereof or until further orders.

PEDRO TUASON

*Secretary of Justice*

## ADMINISTRATIVE ORDER No. 145

*October 13, 1954*

AUTHORIZING JUDGE ANTONIO LACSON OF COTABATO TO HOLD COURT IN DADIANGAS SAME PROVINCE TO TRY ALL KINDS OF CASES.

In the interest of the administration of justice, pursuant to the provisions of section 56 of Republic Act No. 296, and upon request of Judge Antonio Lacson of the Sixteenth Judicial District, Cotabato, Second Branch, he is hereby authorized to hold court in Dadiangas, General Santos (formerly Buayan), Cotabato, beginning November 22, 1954, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON

*Secretary of Justice*

## ADMINISTRATIVE ORDER No. 146

*October 16, 1954*

DESIGNATING ATTORNEY MARTINIANO P. VIVO TO ASSIST THE CITY FISCAL OF MANILA IN THE INVESTIGATION AND PROSECUTION OF CRIMINAL CASE NO. 28960.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Martiniano P. Vivo, Attorney, Office of the Government Corporate Counsel, is hereby designated to assist the City Fiscal of Manila in the investigation and prosecution of Criminal Case No. 28960 of the Court of First Instance of said City, entitled "People vs. Ernesto Ting", for falsification of official and public documents, effective immediately and to continue until further orders.

PEDRO TUASON  
*Secretary of Justice*

#### ADMINISTRATIVE ORDER No. 147

October 18, 1954

#### DESIGNATING ATTORNEY EMILIO GANCAYCO TO ASSIST THE PROVINCIAL FISCAL OF BATANGAS IN THE INVESTIGATION AND PROSECUTION OF A CRIMINAL CASE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Emilio Gancayco, Attorney, Prosecution Division, Department of Justice, is hereby designated to assist the Provincial Fiscal of Batangas in the investigation and prosecution of the case against Pablo Aguila, et al., for murder, effective immediately and to continue until further orders.

PEDRO TUASON  
*Secretary of Justice*

#### ADMINISTRATIVE ORDER No. 148

October 20, 1954

#### DETAILING TEMPORARILY PROVINCIAL FISCAL VICENTE CUSI, JR., OF COTABATO AS ACTING PROVINCIAL FISCAL OF SAMAR.

In the interest of the public service and pursuant to the provisions of section 1680 of the Revised Administrative Code, Mr. Vicente Cusi, Jr., Provincial Fiscal of Cotabato, is hereby temporarily detailed to the Province of Samar, there to discharge the duties of Acting Provincial Fiscal, effective immediately and to continue until further orders.

PEDRO TUASON  
*Secretary of Justice*

## Department of Agriculture and Natural Resources

### BUREAU OF ANIMAL INDUSTRY

#### ANIMAL INDUSTRY ADMINISTRATIVE ORDER No. 13

September 24, 1954

#### PROHIBITION OF THE IMPORTATION OF CATTLE, BUFFALOES AND/OR CARABAOS, SWINE, SHEEP, GOATS, ANIMAL BY-PRODUCTS OR ANIMAL EFFECTS FROM HONGKONG INTO THE PHILIPPINES.

Pursuant to the provisions of section 1770 of the Revised Administrative Code, I hereby declare that dangerous communicable animal disease known as Foot-and-Mouth Disease now prevails in New Territories of Hongkong as reported by Vice Consul Alejandro D. Yango in his letter dated September 7, 1954, the importation of cattle, buffaloes and/or carabaos, swine, sheep, goats, animal by-products or animal effects from Hongkong into this country shall be, as hereby it is, prohibited.

This Order shall take effect on September 24, 1954, and shall remain in force until further order.

SALVADOR ARANETA  
*Secretary of Agriculture and Natural Resources*

Recommended by:

MANUEL D. SUMULONG  
*Director of Animal Industry*

#### LANDS ADMINISTRATIVE ORDER No. 16

September 7, 1954

#### REGULATION TO KEEP CERTAIN PART OF THE LAND APPLIED FOR PLANTED TO FOREST TREES OR TREES OF ECONOMIC VALUE.

1. For the purpose of conserving our forests, in order to mitigate the effect of flood; to prevent soil erosion; to temper extreme climatic conditions; to preserve aesthetic and unique scenery for scientific purposes and in order to preserve grazing areas as well as wildlife, each order of approval of homestead applications; each order of award in case of sale and each lease award and lease contract covering lands to be used for agricultural purposes, shall be made subject to the condition that aside from the conditions imposed upon the applicant as required by law, the applicant shall for, planted to forest trees, or trees of economic keep not less than one-tenth of the land applied value.

2. This order shall take effect immediately.

SALVADOR ARANETA  
*Secretary of Agriculture and  
 Natural Resources*

## BUREAU OF MINES

MINES ADMINISTRATIVE ORDER NO. V-6

### REGULATIONS GOVERNING THE ASSESSMENT OF CHARGES ON APPLICATION FEES FOR PETROLEUM CONCESSION APPLICATIONS.

Pursuant to the authority granted me by article 94 of Republic Act No. 387, otherwise known as the "Petroleum Act of 1949", and to implement the provisions of articles 28, 34, 41, 55, 76 and 84 thereof, under which an application fee shall be paid for every application filed for petroleum concession, and in the event that no concession is granted corresponding to the application filed, the sum paid as application fee shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application, the following rules and regulations governing said fees and the assessment of charges thereon are hereby promulgated:

1. Applications for concessions under the provisions of the Petroleum Act of 1949 shall be filed with the Director of Mines, Manila, who shall receive the same upon payment by the applicant of the corresponding application fee according to the following schedule:

Application for—	Fee for each
a. Non-Exclusive Exploration Permit .....	P100.00
b. Exploration Concession .....	1,000.00
c. Exploitation Concession .....	2,000.00
d. Refining Concession .....	2,000.00
e. Pipe Line Concession .....	2,000.00

Any application for petroleum concession filed without the corresponding application fee shall have no effect and shall be deemed as not having been filed at all.

2. In the event no concession is granted corresponding to an application, the application fee paid shall be returned to the applicant less such charges as correspond to the expenses of the Government in connection with the consideration of the application, as per the following schedule:

#### Charges

- a. If the application is withdrawn, rejected, or cancelled before the Petroleum Technical Board has taken any action on the same ..... 10 per cent

- b. If the application is withdrawn, rejected, or cancelled after the Petroleum Technical Board has taken any action on the same ..... 25 per cent
- c. If the application is withdrawn, rejected, or cancelled after the first publication of the notice thereof and before the execution of the deed of concession.. 50 per cent

3. After the execution of the deed of concession by the Government and the concessionaire the full amount of the application fee shall be deemed spent in the processing of the corresponding application for petroleum concession.

4. Application fees received or collected and/or such portions thereof as shall be considered charges thereon pursuant to the foregoing schedule, shall accrue to the Special Trust Fund of the Bureau of Mines and shall be disposed of in accordance with the regulations governing said Fund.

5. The Director of Mines is hereby authorized to sign orders allowing the withdrawal by the applicants of applications for petroleum concessions, assessing the corresponding charges on the fees paid according to the schedule herein prescribed, and returning the balance to the applicant.

6. This order shall take effect on the date hereof.  
 Manila, Philippines, September 20, 1954.

SALVADOR ARANETA  
*Secretary of Agriculture and  
 Natural Resources*

Recommended by:

BENJAMIN M. GOZON  
*Director of Mines and Chairman  
 Petroleum Technical Board*

## BUREAU OF FISHERIES

FISHERIES ADMINISTRATIVE ORDER NO. 36

June 12, 1954

### TO ESTABLISH A CLOSED SEASON PERIOD FOR THE GATHERING OR KILLING OF MARINE TURTLES, TURTLE EGGS, OR TURTLE SHELLS.

Pursuant to the provisions of sections 4 and 7 of Act 4003, entitled "An Act to amend and compile the laws relating to fish and other aquatic resources of the Philippine Islands and for other purposes", as amended, and for the protection and conservation of marine turtles, their eggs or shells, the following rules and regulations are hereby promulgated for the information and guidance of all concerned:

SECTION 1. *Definition.*—For the purpose of this Administrative Order, the following terms as used herein shall be construed, as follows:

(a) *Marine turtles* shall include those which belong to the species *Chelonia japonica* or *mydas*, *Eretmochelys imbricata*, *Carreta olivacea*, and *Dermochelys coriacea*.

(b) *Turtle eggs* shall include eggs of turtles belonging to the species of turtles enumerated under section 1(a) above.

(c) *Turtle shells* shall include shells of turtles of the species mentioned under section 1(a).

SEC. 2. *Prohibition*.—It shall be unlawful for any person, association, or corporation to kill marine turtles or gather turtle eggs, or turtle shells in any place in the Philippines, covering the period of two and one-half months beginning November first of one year to January fifteenth of the succeeding year.

SEC. 3. *Exemptions*.—(a) For scientific, educational, personal or propagation purposes, any person, association, institution or corporation of good repute may be granted by the Secretary of Agriculture and Natural Resources, free of charge, a permit to gather or kill or cause to be gathered or killed in any manner turtles, turtle eggs, or turtle shells during any period, subject to such conditions as said Secretary may deem wise to impose for the proper conservation and protection of these species. Any person who shall gather or kill turtles, their eggs or shells under such permit, but uses same for purposes other than those mentioned hereinabove, shall be subject to the same penalties as if no license had been granted.

(b) Old turtles and those female ones that do not lay eggs may be gathered or killed upon competent certification by a representative of the Bureau of Fisheries, or its duly authorized agent.

SEC. 4. *Enforcement*.—For the purpose of enforcing the provisions of this Administrative Order, fishery inspectors, agents or officers; members of the Philippine Constabulary; members of the Armed Forces of the Philippines; members of the Philippine Navy; members of municipal and municipal district police; members of the secret service force, inspectors, guards and wharfinger of the customs service; internal revenue officers and agents; officers of coast guard cutters and lighthouse keepers; and such other competent officials, employees and persons, as may be designated in writing by the Secretary of Agriculture and Natural Resources, are hereby made deputies of said Department Head and empowered:

(a) To ascertain whether persons gathering or killing turtles, their eggs or shells are duly provided with licenses and permits required in the Fisheries Act and Administrative Orders, including this Administrative Order;

(b) To arrest any person found committing or attempting to commit an offense against the provisions of Act 4003, as amended, and of this Administrative Order;

(c) To administer oaths and to take testimony in any official matter or investigation conducted by them touching any matter under authority of the Fisheries Act, its amendments, and this Administrative Order; and

(d) To file the necessary complaint in court and report such violations to the Secretary of Agriculture and Natural Resources, for appropriate action. (Section 5, Act 4003, as amended).

In addition to the deputies so designated in the first paragraph of this section, the municipal mayors of the municipalities concerned shall act as such deputies and enforce those rules and regulations in their respective jurisdictions.

SEC. 5. *Penalty*.—Any person, institution, association or corporation who shall violate any of the provisions of this Administrative Order shall be liable to prosecution and, upon conviction, shall suffer the penalty provided in section 83 of Act 4003, as amended, which is a fine of not more than two hundred pesos, or imprisonment for not more than six months, or both, in the discretion of the court.

SEC. 6. *Repealing provisions*.—All orders, rules and regulations or parts thereof inconsistent with the provisions of this Administrative Order are hereby repealed.

SEC. 7. *Date of effectivity*.—This Administrative Order shall take effect sixty days after its publication in the *Official Gazette*.

SALVADOR ARANETA  
Secretary of Agriculture and  
Natural Resources

Recommended by:

D. V. VILLADOLID  
Director of Fisheries

Approved:

By authority of the President:

FRED RUIZ CASTRO  
Executive Secretary

FISHERIES ADMINISTRATIVE ORDER No. 40

July 15, 1954

PROHIBITING THE USE OF FINE-MESHED  
NETS OR SINAMAY CLOTH AT THE BUNT  
OF "BASNIG", "IWAG", "SAPLAD", ETC.

Pursuant to section 4 of the Fisheries Act, as amended, and for the protection and conservation of pelagic fish larvae in all fishing areas in the Philippines, the following regulation is hereby promulgated for the information and compliance of all concerned:

1. *Prohibition*.—It shall be unlawful at all times for any person, association or corporation fishing by means of "basnig", "iwag", "saplad", etc., in any fishing area of the Philippines, to use fine-meshed

nets and/or sinamay cloth at the bunt of said "basnig", "iwag", "saplad", etc.

2. *Penalty.*—Any violation of this Fisheries Administrative Order shall subject the offender to prosecution and, upon conviction, he shall suffer the penalty provided in section 83 of Act 4003 which is a fine of not more than two hundred pesos or imprisonment of not exceeding six months, or both, in the discretion of the court.

3. *Repealing provision.*—All administrative orders and regulations or parts thereof inconsistent with the provisions of this Administrative Order are hereby repealed.

4. *Effectivity.*—This Administrative Order shall take effect upon its approval.

SALVADOR ARANETA  
*Secretary of Agriculture  
and Natural Resources*

Recommended by:

D. V. VILLADOLID  
*Director of Fisheries*

Approved by authority of the President, August 31, 1954.

FRED RUIZ CASTRO  
*Executive Secretary*

FISHERIES ADMINISTRATIVE ORDER No. 17-10  
Series 1954

*September 27, 1954*

## RULES GOVERNING THE LANDING OF FISH CAUGHT AND FOR OTHER PURPOSES

SECTION 1. Section i (III) of the Revised Fisheries Administrative Order No. 17-9, s. 1952, is hereby amended to read as follows:

"III Royal (San Miguel Brewery Compound) Manila; Quinta Market, Quiapo, Manila; Muelle de la Industria (both sides from Jones Bridge to Farola), Manila; North Harbor, Manila; Aplaya, Bauan, Batangas; Talaga, Anilao, Mabini, Batangas; Lemery, Batangas; Balayan, Batangas; Wawa, Nasugbu, Batangas; Sta. Clara, Batangas, Batangas; North Boulevard, Navotas, Rizal; Tangos, Navotas, Rizal; Baclaran, Parañaque, Rizal; Cavite City; Rosario, Cavite; Orion, Bataan."

SEC. 2. The landing of fish caught, from McArthur Bridge to Jones Bridge (both sides of the Pasig River) is hereby prohibited.

SEC. 3. *Repealing Provision.*—All administrative orders, and regulations or parts thereof, inconsistent with the provisions of this order are hereby repealed.

SEC. 4. This Administrative Order shall take effect immediately on its approval.

SALVADOR ARANETA  
*Secretary of Agriculture and  
Natural Resources*

Recommended by:

D. V. VILLADOLID  
*Director of Fisheries*

## Department of Public Works and Communications

### BUREAU OF TELECOMMUNICATIONS

ADMINISTRATIVE ORDER No. 20

*September 22, 1954*

#### NOMINAL RATE OF ₱0.30 ON MESSAGES RELATING TO THE INSTALLATION, CON- STRUCTION AND OPERATION OF IRRIGA- TION PUMPS.

In line with the Rural Economic Development Program of the government, official telegrams of the Irrigation Service Unit, under the Department of Public Works and Communications, filed by authorized officials of the said Unit congaion pumps, shall, as a temporary measure, be accepted at the rate of ₱0.30 per message, subject to the following conditions:

(1) That each of such telegrams shall contain not more than 30 words in length, and that in case the message contains more than 30 words, every word in excess of 30 shall be charged for at the rate of ₱0.15 per word;

(2) That only two telegrams of this nature can be filed daily at the nominal rate of ₱0.30 from one telegraph office to another, and that telegrams that may be filed in excess of the two telegrams herein allowed shall be treated as full-rate telegrams and shall, therefore, be charged accordingly;

(3) That such telegrams shall deal exclusively on matters concerning the installation, construction and operation of irrigation pumps and shall be framed in the fewest words possible;

(4) That each of such telegrams shall be filed in duplicate in order to facilitate the submission of bills to the Irrigation Service Unit, Department of Public Works and Communications;

(5) That each of such telegrams shall carry the indicator "IRRIGATION" before the address and included in the count of chargeable words; nets and/or sinamay cloth at the bunt of said "O. B. CHARGEABLE TO ACCOUNT, IRRIGATION SERVICE UNIT" followed by the signature of the official authorized to file the same;



(7) That a monthly statement of account shall be prepared by the Accounting Officer of the Bureau of Telecommunications and transferred to the Irrigation Service Unit for settlement; and

(8) That this arrangement is only temporary in nature and shall be discontinued whenever full-rate telegrams are being delayed through congestion of traffic.

F. CUADERNO

*Director of Telecommunications*

Approved:

VICENTE OROSA

*Acting Secretary of Public Works  
and Communications*

#### CIRCULAR No. 6

*September 23, 1954*

#### TELEGRAPH FILES AND "CHARGE" MESSAGES, SEPARATE SUBMISSION OF—

It has been reported that in spite of repeated instructions concerning the submission of telegraph files, there are many offices that are constantly sending such telegraph files to the Accounting Officer, Bureau of Telecommunications, Manila. The worst part of this practice is that "charge" telegrams are mixed with such telegraph files, thereby causing unnecessary delay in the rendition of bills and collection of amounts due.

Circular No. 1 dated February 8, 1952, provides in part as follows: "*The charge messages should be sent by registered mail to the Accounting Officer, Bureau of Telecommunications, Manila, including radiograms, cablegrams and marine radiograms and B.T. Form No. 4, so that the corresponding bills may be prepared \* \* \**" It should be understood that only telegrams filed by individuals, firms, companies, corporations, periodical publications or news agencies to whom "charge account privileges" have been authorized by the Central Office, may be accepted as "charge" telegrams.

In order to avoid accumulation of files of "charge" messages and to hasten the rendition of bills and collection of amounts due, it is directed that beginning at once, all "charge" telegrams and the corresponding Telegraph Report on B. T. Form No. 473 and B. T. Form No. 4, be sent by registered mail to the Accounting Officer every 15th day and end of the month.

Section 715 of the Manual of the Postal and Telegraph Service, as amended, is quoted hereunder:

"Sec. 715. Telegraph files shall be sent by registered mail to the Chief, Investigation, Rates and Regulations Division, at the end of each month. Telegraph reports on B. T. Form No. 473 shall be forwarded to the Accounting Officer for the same Bureau."

The telegraph files include in accordance with present set-up, paid telegrams, relay, deadhead, service, wire messages and score sheets.

A record is being made in the Accounting Office and in the Investigation, Rates and Regulations Division, of telegraph and radio offices failing to comply with these regulations, and the employees concerned will be subject to administrative punishment.

These instructions supersede any existing regulations in conflict therewith.

All employees in the respective offices are hereby enjoined to read and initial this circular before it is filed away.

F. CUADERNO

*Director*

#### CIRCULAR (Unnumbered)

*September 28, 1954*

#### APPROXIMATE NUMBER OF WORDS IN TEXT OF CERTAIN SPECIAL RATE TELEGRAMS, TO BE INDICATED BY NUMBER OF LINES.

To save time without sacrificing accuracy in certain long plain telegrams accepted under nominal rates regardless of length, do not count anymore one by one the text of such telegrams, but instead calculate the number of lines contained in the text, allowing 10 words per line, and indicating the number of lines in the preamble in lieu of the usual number of words. Example: 10 LINES COMPLAINT, or 5 LINES LOCUST, as the case may be.

Specifically, the following classes of telegrams fall under the new manner of showing the approximate number of their word contexts:

(1) Telegrams addressed to "PCAC" at nominal rate of P0.10 per message containing complaints against Government officials and employees, including acknowledgment telegrams relating to such complaints;

(2) Those being accepted at nominal rate of P0.20 per telegram from authorized officials of—

- (a) Bureau of Health;
- (b) Department of Agriculture and Natural Resources concerning locust infestations;
- (c) Treasurer of the Philippines and the
- (d) Philippine National Bank relative to collection and transfer of funds;
- (e) Bureau of Plant Industry concerning rodents; and
- (f) Bureau of Plant Industry pertaining to eradication and control of rats.

If normally written on typewriter, a line on BT Form No. 466 should contain about 9 or 10 words, but if text of telegram is written too few, or too many, words in one line, calculate the number of



lines on the basis of 10 words per line and indicate same in the preamble in accordance with the examples given above.

All such messages must be transmitted and received by wire or radio or any other means with the same accuracy and manner as in regular messages to avoid omission of words, mutilation and subsequent complaint against the service.

F. CUADERNO

*Director of Telecommunications*

CIRCULAR

(Unnumbered)

October 1, 1954

# TRAINING OF OUTSIDERS OR ALLOWING THEM TO PRACTICE ON TELEGRAPH OR RADIO CIRCUITS, PROHIBITION AGAINST—

It has been reported here that chief operators, operators-in-charge, and postmaster-operators of certain telegraph and radio stations are allowing outsiders to practice telegraphy in their offices.

If such report is true, it is hereby directed that such illegal practice be stopped at once.

Outsiders should not be allowed to enter into the workroom of a station, much less in the section where telegrams are being transmitted and received.

This is to prevent outsiders from seeing or hearing messages that are being received or transmitted, as divulgence of contents of such messages are prohibited and penalized by law.

Those in charge of telegraph and radio stations should take necessary steps from time to time to prevent divulgence of contents of telegrams. Repeated reports by different persons or entities of divulgence of telegrams in a certain office will result in the demotion of the one in charge, if responsibility cannot be placed on somebody else. This is in accordance with the policy of command responsibility.

Violation of the provisions of this circular will be drastically dealt with.

Have this circular read and initialed by all the employees in each station before filing it.

F. CUADERNO

*Director of Telecommunications*

CIRCULAR No. 8

October 2, 1954

# "CHARGE" TELEGRAMS OF FIELD AND/OR CONTACT REPRESENTATIVES OF THE U. S. VETERANS ADMINISTRATION, ACCEPTANCE OF—

The U. S. Veterans Administration has made representations with this Office that its Field rep-

resentatives in the provinces are having difficulty in filing their telegrams for Manila. As a gesture of cooperation and in order to facilitate the acceptance of such telegrams, the United States Veterans Administration (USVA) has issued identification card to each and every field representative of that office with a picture affixed thereto and authority to file "charge" telegrams. In view hereof, it is directed that, effective at once, official telegrams of representatives of the USVA be accepted as "Charge" subject to the following conditions:

1. The representative filing the telegrams shall be courteously requested to produce his Identification Card which bear his picture and the printed authority to file telegrams issued by USVA;

2. The telegrams shall be filed in duplicate so that the same could be forwarded every 15th day and end of the month to the Accounting Officer, Bureau of Telecommunications, Manila, as required by Circular No. 6 dated September 23, 1954;

3. The telegrams shall be indorsed at the lower left hand corner "CHARGEABLE TO THE ACCOUNT OF USVA, MANILA," followed by the signature of the representative.

F. CUADERNO

*Director of Telecommunications*

CIRCULAR

(Unnumbered)

October 5, 1954

# LOSS OF TREASURY WARRANT NUMBER 1525623

The loss of the following treasury warrant has been reported by the Accounting Officer of the Bureau of Telecommunications:

T/W No. 1525623 for P75.00, dated January, 1952 in favor of Francisco Nora.

Chief Operators, operators-in-charge and others concerned shall take note of the lost warrant and see to it that it is not accepted in their transactions under any circumstances. Any government official or employee who finds it in the possession of any person is requested to notify this Office immediately.

F. CUADERNO

*Director of Telecommunications*

CIRCULAR

(Unnumbered)

October 5, 1954

# PROHIBITION AND RESTRICTION AGAINST THE PRACTICE OF NEPOTISM

Executive Order No. 55 dated August 11, 1954, provides that "when there is already one member of a family in an Office or Bureau, no other member of such family shall be eligible for appointment to any position therein."

This restriction is not applicable to the case of a member of any family who, after his or her appointment to any position in an Office or Bureau, contracts marriage with someone employed in the same Office or Bureau, in which event the employment or retention therein of both husband and wife be allowed (Executive Order No. 21 dated March 23, 1954.)

In this connection, our Department has issued the following Circular:

**"TO ALL DIRECTORS AND CHIEFS OF BUREAUS AND OFFICES:**

"Your attention is hereby invited to the prohibition and restriction against the practice of nepotism contained in Executive Order No. 111 dated August 30, 1937 as amended by Executive Order No. 21 dated March 23, 1954 and Executive Order No. 55 dated August 11, 1954, the pertinent portion of which is quoted hereunder:

'In order to give immediate effect to this Order, cases of previous appointments which are in contravention hereof shall be corrected by transfer, and pending such transfer, no promotion shall be allowed in favor of the relative occupying a subordinate position or in favor of anyone of the members of the same family in a Bureau or Office. In exceptional cases, where the application of this rule would impair the efficiency of the service or would produce a patent injustice, an appointment or promotion may be made with the approval of the Commissioner of Civil Service.'

"It is hereby enjoined that the above-quoted portion of said Executive Order be strictly complied with. All cases coming under the restriction should be reported to this Office.

VICENTE OROSA  
*Acting Secretary*

It is desired that all cases coming under the restriction be immediately reported to the central office. See Circular No. 5 dated August 31, 1954.

F. CUADERNO  
*Director of Telecommunications*

CIRCULAR  
(Unnumbered)

October 18, 1954

#### LOSS OF TREASURY WARRANTS NUMBERS 2236156, 3259396 and 3757653

The loss of the following treasury warrants has been reported by the Accounting Officer of the Bureau of Telecommunications:

T/W No. 2236156 for P82.12, dated December 3, 1952 in favor of Eugenio G. Lucero.

T/W No. 3259396 for P30.53, dated December

31, 1953 in favor of the PNB Agency, Sorsogon, Sorsogon.

T/W No. 3757653 for P60.45, dated August 2, 1954 in favor of Jose Carpena.

Chief Operators, Operators-in-charge and others concerned shall take note of the lost treasury warrants and see to it that they will not be accepted in their transaction under any circumstances. Any government official or employee who finds them in the possession of any person is requested to notify this Office accordingly.

F. CUADERNO  
*Director of Telecommunications*

## Department of Commerce and Industry

August 12, 1954

### RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 1180 OTHERWISE KNOWN AS "AN ACT TO REGULATE THE RETAIL BUSINESS"

Pursuant to the provisions of Republic Act No. 1180, otherwise known as An Act to regulate the Retail Business," the following rules and regulations are hereby promulgated:

1. Any alien engaged in retail business on May 15, 1954, whether an individual, association, partnership or corporation, U. S. citizen excepted, shall within ninety days after the approval of the Act or on or before September 17, 1954 and within the first fifteen days of January thereafter, file with the office of the treasurer of the city or municipality where his business is located, Department of Commerce and Industry Form No. 1 showing all the particulars regarding his business as required by section 2 of Republic Act No. 1180. These application forms are available at the office of every city or municipal treasurer at P.50 per set of five copies.

2. The application form shall be accomplished in quintuplicate, the original to be retained in the office of the city or municipal treasurer and three signed copies forwarded to the Department of Commerce and Industry by the retailer-applicant, through the city or municipal treasurer, postage prepaid. One copy shall be retained by the applicant-retailer.

3. The city or municipal treasurer shall, upon receipt of the application, issue free of charge, Department of Commerce and Industry Form No. 2, entitled "Permit to Engage in the Retail Business."

(a) The permit shall entitle the holder thereof to renew his internal revenue license to continue in business and in no case shall it be issued to a retailer not in business on May 15, 1954.

(b) The permit shall be exhibited in a conspicuous place in the store, side by side with the current internal revenue license.

(c) Where an applicant has more than one store evidenced by his internal revenue license, a permit shall be issued for each store. No permit shall be issued for any branch not in business on May 15, 1954.

(d) In case of death of an alien retailer, the permit to continue the business may only be for purposes of liquidation for a period not exceeding six months after such death.

4. The permit issued under these rules and regulations shall be forfeited for any violation of any provision of law on nationalization, economic control, weights and measures, and labor and other laws relating to trade, commerce, and industry.

5. The inspection of stores for the purpose of checking whether the retailers have complied with the provisions of Republic Act No. 1180 and with the rules and regulations promulgated thereunder shall be undertaken by the authorized representatives of the Bureau of Commerce.

OSCAR LEDESMA

*Secretary of Commerce and Industry*

DCI FORM No. I

Schedule No. ....  
Province or City .....  
Municipality or .....  
Municipal District .....

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF COMMERCE AND INDUSTRY  
MANILA

APPLICATION FOR REGISTRATION UNDER THE  
PROVISIONS OF REPUBLIC ACT NO. 1180

THE CITY/MUNICIPAL TREASURER

SIR:

I/We have the honor to apply for registration under the provisions of Republic Act No. 1180. In support of this application, I/we submit the following data and information in quintuplicate:

1. Name of owner or firm name .....
2. Form of business organization:

Single proprietorship ☐  
Partnership ☐  
Corporation ☐

3. Place of business .....  
(Street No.) (City/Municipality)

(Province)

4. Date and number of registration as private merchant in the Bureau of Commerce: .....  
(Reg. No.) (Date)

5. Business name (style or aliases, if any) registered: .....

6. Branch stores owned by applicant: .....

Name

Place of Business

.....  
.....  
.....  
.....  
.....

7. Nationality of owner or owners: .....  
Number of alien certificate of registration .....  
Date of issue .....
8. Sex of owner, if individual proprietorship: .....
9. Type of retail business engaged in: .....
10. Date when business began: .....

(a) Name under which business tax receipt issued .....

- (b) Kind of receipt issued .....
- (c) Number of tax receipt .....
- (d) Date and place of issue .....
- (e) Date and number of registration certificate under section 203 of the National Internal Revenue Code .....
- (f) Kinds of books of accounts used .....
- (g) Place and date of registration .....

11. Amount of initial capital invested in the retail business by:

- (a) Individual proprietorship P. ....
- (b) Partnership .....
- (c) Corporation: .....  
Authorized .....  
Subscribed .....  
Paid-up .....

12. The names, addresses, and nationality of partners or stockholders of this partnership/corporation and the amount of initial capital, contributed as follows:

Name of Partners/Stockholders	Paid-in	Subscribed	Nationality	Address
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

13. Assets and liabilities of this retail establishment as of December 31, 1953:

Assets	Liabilities
(a) Cash on hand & in the bank .....	(a) Accounts payable .....
(b) Accounts, Notes & Bills rec'ble .....	(b) Notes payable .....
(c) Merchandise inventories .....	(c) Unpaid wages, taxes, etc. ....
(d) Investments .....	(d) Bonds & mortgages payable .....
(e) Equipment, office .....	(e) Other liabilities .....
(f) Lands & buildings .....	Net worth .....
(g) Other assets (specify) .....	(a) Capital .....
TOTAL .....	(b) Surplus (or deficit) .....
.....	TOTAL .....

14. The average daily sales of this retail establishment three months previous to this application for registration is: .....

15. Monthly rent for the building occupied by this store: .....

16. Place, name and address of the office where this partnership/corporation was registered: .....

17. The term of existence of this partnership/corporation is ..... years, commencing from ..... and expiring on .....

18. Names and citizenship of principal officials of the partnership/corporation:

.....  
 .....  
 .....

19. The products handled by this retail establishment are:

.....  
 .....  
 .....

20. State other businesses engaged in, such as merchandise broker, exchange broker, etc. ....

21. Name and address of wife or husband, if married .....

(a) Name, age, address and relationship of heirs to herein applicant:

.....  
 .....  
 .....

22. Number of persons employed in the retail establishment or store: .....

	Male	Female	Total salaries or wages paid during month immediately preceding application for what
(a) Wage earners .....	.....	.....	.....
(b) Owners, managers and supervisors .....	.....	.....	.....
(c) Other salaried employees .....	.....	.....	.....

Number of working days a week: .....

Number of working hours a week: .....

23. If applicant has been convicted of any law relating to commerce and industry, state nature of offense, name of court, province or city, and date of convictions:

.....  
 .....

24. I shall forward to the Department of Commerce and Industry, Manila, through the City/Municipal Treasurer, postage prepaid, three (3) signed copies of this application form.

(Applicant)

REPUBLIC OF THE PHILIPPINES

City/Municipality of ..... } s.s.

SUBSCRIBED AND SWORN TO before me this .....  
 day of ....., 195..., in the City  
 /Municipality of ....., Philippines.  
 Affiant exhibited to me his Residence Certificate No. ....,  
 issued at ..... Philippines, on .....  
 195....

NOTARY PUBLIC  
 Until December 31, 195....

Doc. No. ....  
 Page No. ....  
 Book No. ....  
 Series of 195....

#### INSTRUCTIONS

Before making entries read carefully the following instructions:

1. Enter the name of owner if individual proprietorship; name of partners if unregistered partnership; and firm if reg-

istered partnership. (Do not fill in the blanks at the right hand top corner of the application blank. They are intended for the statistical coders and compilers).

2. Check one.

3. Enter location and address of the store.

4. Indicate Serial No. of Certificate of Registration and date of issue thereof.

5. If a partnership or corporation uses a business name other than its firm name, give the business name, date of issue and the expiration date as per Certificate of Registration issued by the Bureau of Commerce. Include *alias* or *aliases*, if any.

6. If no branch store, indicate by the word "none".

7. If there are more than one owner give the names of all as appearing in the certificate of alien registration.

8. Give sex of owner.

9. The type of retail business engaged may be one of the following: sari-sari, dry goods, grocery, hardware, drugstore, haberdashery, bazar, shoe store, gasoline station, etc.

10. Indicate when business was first started as well as other particulars called for in (a) to (g) concerning the Internal Revenue license issued.

11. The initial capital called for in No. 11 is the sum actually invested.

12. Give names and addresses of partners or stockholders of partnership/corporation, the authorized capital and the amount subscribed. Enter the respective amount paid-in, and nationality and addresses of the investors in the proper columns.

13. Enter the different items of the assets as well as the liabilities of the retail establishment and the net worth and surplus or deficit.

14. Indicate the average daily sales of the establishment for three months previous to registration.

15. Give the amount of rent paid per month.

16. Enter the place, name and address of the office where partnership/corporation was registered.

17. This refers to the number of years of life of the partnership/corporation.

18. Give names and citizenships of officials of partnership/corporation.

19. Enumerate the different products or articles handled or for sale in the establishment, such as canned goods, toilet articles, dry goods, wine & liquors, etc.

20. If engaged in other kinds of business specify the latter.

21. Give the name of the wife or husband of the applicant, if married, as well as the names and addresses of heirs of the applicant and relationship to him, as son, daughter, etc.

22. This refers to kind of workers employed by establishment, classified by sex and the monthly payroll paid during preceding application, by kind of workers. Also give the number of working days a week as well as the number of working hours a week.

23. Enter nature of crime committed, the court and its location, date of conviction.

24. It is necessary that the applicant comply with this requirement for record, checking, verification and statistical purposes. To that end, three signed copies should be enclosed in an envelope, postage duly affixed, addressed to the Department of Commerce and Industry, Manila, and left with the city/municipal treasurer for transmittal to addressee.

#### CIVIL AERONAUTICS ADMINISTRATION

ADMINISTRATIVE ORDER No. 44  
 Series of 1954

The following is an amendment to Administrative Order No. 31:

*Delete:* the word "except" after the phrase "shall not be accepted" in paragraph 4 and substitute in lieu thereof:

"for the purpose of this Administrative Order, unless"

*Delete:* paragraph 5.2.1, and substitute in lieu thereof:

"5.2.1 'INREQ', 'ALNOT', and 'SOS' messages shall be used by RCC depending upon the phase of emergency, i.e., 'INREQ' shall be transmitted during an uncertainty phase of emergency, 'ALNOT' during an alert phase."

*Add:* the following new paragraph 5.2.1.1:

"5.2.1.1. The 'SOS' message shall be transmitted to all stations and other agencies who are in a position to render assistance. This type of message may be originated by any station receiving the information specified in paragraph 5.1.c (2), (3) and (4) above. The following is an example of a teletype transmission of an 'SOS' message:

Example:

"DUM 32 260830Z  
SOS PAL DVCE  
SOS PIC285 SWIFT DUMA VFR DCT  
DVCE  
0335Z 0345 DUSP ETA 0715Z COLOR  
RED  
YELLOW NUMBERS BLACK STRIPE  
ON FUSELAGE  
FUEL ON BOARD AIRCRAFT BE-  
LIEVED EXHAUSTED.  
DUMA RCC 26830Z"

URBANO B. CALDOZA  
*Administrator*

Approved, September 21, 1954.

PERFECTO E. LAGUIO  
*Undersecretary of Commerce  
and Industry*

## Central Bank of the Philippines

### LISTS OF THE LEGAL PARITIES AND/OR EXCHANGE RATES, AS OF AUGUST 1954, OF THE VARIOUS FOREIGN CURRENCIES IN TERMS OF U. S. DOLLAR AND THE PHILIPPINE PESO.

Member countries with par values	Unit	Equivalent in U. S. currency	Equivalent in Phil. currency
Australia .....	Pound .....	\$2.240	P4.480
Austria .....	Schilling .....	.03846	.07692
Belgium .....	Franc .....	.020	.040
Bolivia .....	Boliviano .....	.00526	.01052
Brazil .....	Cruzeiro .....	.054	.108
Burma .....	Kyat .....	.210	.420
Ceylon .....	Rupee .....	.210	.420
Chile .....	Peso .....	.00909	.01818
Colombia .....	Peso .....	.5128	1.0256
Costa Rica .....	Colon .....	.178	.356
Cuba .....	Peso .....	1.000	2.000
Denmark .....	Krone .....	.145	.290
Dominican Republic .....	Peso .....	1.000	2.000

Ecuador .....	Sucre .....	.067	.134
Egypt .....	Pound .....	2.872	5.744
El Salvador .....	Colon .....	.400	.800
Ethiopia .....	Dollar .....	.402	.804
Finland .....	Markka .....	.004	.008
Germany, Fed. Rep. of .....	Deutsche Mark .....	.238	.476
Guatemala .....	Quetzal .....	1.000	2.000
Haiti .....	Gourde .....	.20	.40
Honduras .....	Lempira .....	.500	1.000
Iceland .....	Krona .....	.061	.122
India .....	Rupee .....	.210	.420
Iran .....	Rial .....	.031	.062
Iraq .....	Dinar .....	2.800	5.600
Japan .....	Yen .....	.0028	.0056
Jordan .....	Dinar .....	2.80	5.60
Lebanon .....	Pound .....	.456	.912
Luxembourg .....	Franc .....	.020	.040
Mexico .....	Peso .....	.080	.160
Netherlands .....	Guilder .....	.263	.526
Nicaragua .....	Cordoba .....	.200	.400
Norway .....	Krone .....	.140	.280
Pakistan .....	Rupee .....	.302	.604
Panama .....	Balboa .....	1.000	2.000
Paraguay .....	Guarani .....	.067	.134
Sweden .....	Krona .....	.193	.386
Syria .....	Pound .....	.456	.912
Turkey .....	Lira .....	.357	.714
Union of South Africa .....	Pound .....	2.800	5.600
United Kingdom .....	Pound .....	2.800	5.600
United States .....	Dollar .....	1.000	2.000
Venezuela .....	Bolivar .....	.2985	.597
Yugoslavia .....	Dinar .....	.0033	.0066

SOURCE OF DATA: International Financial Statistics, August 1954.

Member countries without par values	Unit	Equivalent in U. S. currency	Equivalent in Phil. currency
Canada .....	Dollar .....	\$1.02	P2.04
China .....	Yuan .....	-	-
Czechoslovakia .....	Koruna .....	.139	.278
France .....	Franc .....	.003	.006
Greece .....	Drachma .....	.0332	.0664
Indonesia .....	Rupiah .....		
Official Selling .....		.087	.174
Official Buying .....		.088	.176
Israel .....	Pound .....		
Principal rate .....		.556	1.112
Other rates .....		(1.00	(2.00
		(.77	(1.54
Italy .....	Lira .....	.0016	.0032
Peru .....	Sol .....		
Free rates:			
Certificate .....		.0515	.103
Draft .....		.050	.100
Thailand .....	Baht .....		
Official Selling rates .....		(.0797	(.1594
		(.0622	(.1244
Official Buying rates .....		.0803	.1606
Free .....		.0476	.0952
Uruguay .....	Peso .....		
Buying rate:			
Official Basic .....		.526	1.052
Special .....		.408	.816
Buying rate:			
Official Basic .....		.658	1.316

SOURCE OF DATA: International Finance Statistics, August 1954

Non-Member countries without par values	Unit	Equivalent in U. S. currency	Equivalent in Phil. currency
Argentina .....	Peso		
Official Selling:			
Basic .....		\$.133	P.266
Preferential .....		.200	.400
Official Buying:			
Basic .....		.200	.400
Preferential .....		.133	.266
Free .....		.072	.144
Ireland .....	Pound	2.8181	5.6362
South Korea .....	Hwan	.0167	.0334
New Zealand .....	Pound	2.782	5.564
Portugal .....	Escudo	.035	.070
Spain .....	Peseta		
Official:			
Basic Selling .....		.089	.178
Preferential Selling .....		.04	.08
Basic Buying .....		.0456	.0912
Preferential Buying .....		.0456	.0912
Free .....		.026	.052
Switzerland .....	Franc	.233	.466

SOURCE OF DATA: International Financial Statistics, August 1954.

Non-metropolitan areas	Unit	Equivalent in U. S. currency	Equivalent in Phil. currency
Hongkong .....	Dollar	.175	.35
British North Borneo, Brunei, Malaya, Sarawak ....	Dollar	.327	.654

SOURCE OF DATA: International Financial Statistics, August 1954.

G. L. RIALP  
Acting Director  
Foreign Exchange Department

## CIRCULAR No. 57

October 6, 1954

# RULES AND REGULATIONS GOVERNING DEMONETIZATION OF TREASURY CERTIFICATES AND CENTRAL BANK NOTES OF OVER THE 100-PESO DENOMINATION.

Pursuant to the provisions of section 3 of Republic Act No. 1191, the following rules and regulations governing demonetization of treasury certificates

and Central Bank notes of over the 100-peso denomination are hereby prescribed:

1. Holders of treasury certificates and Central Bank notes, either individual persons, associations, corporations, or institutions, of the denominations of over one hundred pesos shall surrender said bills to the Central Bank of the Philippines or to its authorized agent banks in Manila for exchange with equivalent amount of treasury certificates or Central Bank notes of smaller denominations.

2. Holders of such currency notes in the provinces and cities may surrender the notes with any of the provincial or city branches of the Philippine National Bank in the locality.

3. In places where there are no such branches, the holders may present their money to the provincial agencies of the Philippine National Bank.

4. Holders of said certificates and bank notes may use them in buying government bonds and securities and such industrial bonds and securities as shall be approved by the Securities and Exchange Commission or in depositing them in banks during the period of six months from the approval of Act No. 1191, or not beyond February 25, 1955.

5. All treasury certificates and Central Bank notes of over the 100-peso denomination not presented for replacement or exchange with certificates and bank notes of smaller denomination during the period herein prescribed shall, after February 25, 1955, cease to be legal tender.

6. All authorized agent banks shall surrender immediately to the Central Bank either for deposit or exchange treasury certificates and bank notes received by them from their customers under the provisions of this circular.

7. This Circular shall take effect as of August 25, 1954.

ANDRES V. CASTILLO  
Acting Deputy Governor

Approved by the Monetary Board, September 28, 1954.

F. STA. ANA  
Secretary



## APPOINTMENTS AND DESIGNATIONS

### BY THE PRESIDENT OF THE PHILIPPINES

#### (Ad Interim Appointments)

*October 1954*

Ponciano Rivera as City Assessor of Cabanatuan City, October 5.

Miss Eugenia W. Yerro as Justice of the Peace of Tabontabon, Leyte, October 5.

H. B. Reyes and Francisco Dalupan as Members of the Government Survey and Reorganization Commission, October 6.

Fidel Rosanes as City Attorney of Tagaytay City, October 6.

Cesar Alaestante as Clerk of Court of Zamboanga del Sur, October 6.

Ramon Regondola as City Treasurer and Severo Espinosa as City Warden of Zamboanga City, October 6.

Guillermo E. Torres as First Assistant Solicitor General, October 7.

Ramon L. Avanceña, Jose G. Bautista, Jaime de los Angeles, and Esmeraldo Umali as Assistant Solicitors General, October 7.

Florencio Villamor, Jose P. Alejandro, Antonio A. Torres, Meliton G. Soliman, Pacifico P. de Castro, Adolfo Brillantes, Isidro C. Borromeo, Federico V. Sian, Rafael P. Ceniza, Juan T. Alano, Felicísimo R. Rosete, Mariano M. Trinidad, Mrs. Frine C. Zaballero, Roman Cansino, Jr., and Antonio Consing as Solicitors in the Office of the Solicitor General, October 7.

Jose Alejandrino as Envoy Extraordinary and Minister Plenipotentiary of the Republic of the Philippines, October 11.

Florendo Rosete as Justice of the Peace of San Felipe, Zambales, October 11.

Federico S. Tacason as Second Assistant Provincial Fiscal of Ilocos Sur, October 12.

Jose T. Lantin as Provincial Fiscal of Batangas, October 13.

Francisco Valera as Justice of the Peace of Bangued, Abra, October 14.

Leon Gaetos as Justice of the Peace of San Juan, La Union, October 15.

Simplicio Cabading as Justice of the Peace of San Gabriel, La Union, October 15.

Lininding Pangandaman as City Attorney of Dansalan City, October 16.

#### Designations by the President

*September 1954*

Martin Aguilar, Jr., as Undersecretary of Education, September 13.

Jesus E. Perpinan as Assistant Director of the Bureau of Private Schools, September 16.

Emilio Galang as Commissioner of the Bureau of Immigration, September 20.

Dr. Eugenio C. Quesada as Member of the Board of Pharmaceutical Examiners, September 22.

Jack Arroyo and Isidro Retizos as Members of the Board of Directors of the People's Homesite and Housing Corporation, September 30.

*October 1954*

Ramon Siytangco as Member of the Board of Directors of the Price Stabilization Corporation, October 3.

P. E. Domingo as Member of the National Planning Commission, October 5.

Mrs. Remedios O. Fortich as Member of the Board of Administrators of the National Resettlement and Rehabilitation Administration, October 14.

Col. Cornelio Lopez as Member of the Board of Administrators of the Philippine Coconut Administration, October 15.

## HISTORICAL PAPERS AND DOCUMENTS

### PRESIDENT MAGSAYSAY'S STATEMENT ON PHILIPPINE APPLICATION FOR MEMBERSHIP IN THE COLUMBO PLAN, October 9, 1954

**T**HE Philippine delegation to the Colombo Plan Conference in Ottawa has filed formal application for membership in the Colombo Plan. While the nature and extent for our ultimate participation will be subject to the customary processes of ratification under our laws, this preliminary action is another step toward the realization of this Administration's foreign policy objectives.

By indicating our endorsement of the principles and aims of the Colombo Plan, we are giving substance to our frequently expressed determination to seek every means of cooperation with our free neighbors in the effort to raise the living standards of the peoples of Asia.

We are also by this means giving concrete expression to the spirit of the Manila Conference of 1954 and its resultant Pact in which the signatories pledged cooperation in advancing the economic development of the region and in fostering the social and economic well-being of its peoples.

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### PRESIDENT MAGSAYSAY'S LETTER TO NERI TO FORMALIZE THE LATTER'S SELECTION AS CHIEF NEGOTIATOR ON JAPANESE REPARATIONS, October 9, 1954

THE HONORABLE  
FELINO NERI  
MANILA

SIR:

**I** AM pleased to inform you that to formalize your selection as Chief Negotiator for the Philippine Government on the reparations question, you are hereby designated, pursuant to the powers vested in me by law and in accordance with the recommendation of the Council of Leaders, Chairman of the Philippine panel to undertake said negotiations with the representatives of the Japanese Government, if and when they are resumed.

For this purpose, you are also hereby invested with the rank of full ambassador.

In this capacity, you shall consider yourself as directly responsible to the President. I urge you, however, to seek counsel and advice from time to time from the consultative committee of the Council of Leaders and the Department of Foreign Affairs, should such consultation be warranted, and shall report to me on such matters as may require my attention.

The restoration of normal relations with Japan being dependent on the satisfactory settlement of the reparations question, our position thereon, should it be decided to have the negotiations resumed, shall be based on the recent data made available to the Philippines, particularly the report of the Hernandez Survey Mission to Japan.

Very truly yours,

RAMON MAGSAYSAY  
*President of the Philippines*

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PRESIDENT MAGSAYSAY'S SPEECH AT U. P. LOYALTY DAY CELEBRATION AT LOS BAÑOS COLLEGE, October 10, 1954

**T**HIRTY-SIX years ago, the first World War was being fought between those who believed in man's right to freedom and a government of his own choice, and those who believe in rule by force and conquest.

Thirty-six years ago, on this date, a call was heard at this institution for volunteers to join in that struggle. In a thrilling demonstration of unity, every man present—student and faculty member alike—stepped forward.

Each year since, that magnificent display of loyalty has been celebrated here at Los Baños and remembered with pride throughout our nation. In those early days we were ruled by the United States. Today we rule ourselves. But there has been no change in our celebration of this occasion because the loyalty we honor was loyalty to an ideal—loyalty to the concept of freedom.

Today again we face the challenge of freedom versus slavery. Again, throughout the world, free societies must defend themselves against the aggression of a new would-be world conqueror—Communism. We hear again, in our own homeland, the call to serve our ideals.

The task we face calls for great effort on the part of all of us. It is not enough for us to man our defense post in the world struggle. It is not enough for us to defeat and control the Communist aggressor at home. While protecting our basic freedom on all fronts, we must at the same time speed the building of democracy in our land. To those of our people who have never known it, we must bring the blessings that a free society has to offer.

Political democracy is well rooted among our people, but it must have the nourishment of economic democracy if it is to survive.

Democracy means equal opportunity. Equal opportunity means that each of our citizens must have access to the means of working toward a better life. His reward will depend upon the amount of effort he is willing to contribute, but it is his democratic right to be able to make such effort.

Many obstacles lie in our path: the forces of nature—the effects of past wrongs—our own inertia and lack of enterprise.

Take just one field—*your field*, which is agriculture. Here we come up against all the pressures I have mentioned. Our country is both under-developed and badly developed. Much of our land is still virgin soil. Our farms do not yield as much as they could, and do not produce as many different crops as they should.

We are saddled with an outmoded system of land tenure. More than half of our farmers are tenants and farm owners with less than two hectares. With low incomes from their little fields, these tenants and small farmers become the prey of usurers, unscrupulous landlords, and speculators.

To a large extent, our agricultural methods are still primitive. Many of our farmers do not have the tools of modern science and technology—tools which have long been available to the farmers in more progressive countries.

Many of our small farmers do not have title to their lands. There was a five-year program to give land titles to fifty thousand farmers. But five years is too long in this case. By sound planning—by vigorous action—we intend to complete that five-year program in one year.

Centuries of neglect have left many of our farming communities in the grip of inertia, victims of all the evils of under-employment, low production, and low income. Our agricultural development was lopsided and lacking in direction, with the result that our economy became dependent on a few export crops. The prices of these crops fluctuated continually, making it difficult for us to attain economic stability.

On top of all these, we have had to repair the ravages of the Second World War and of the Huk rebellion. At the height of the dissident movement, thousands of farmers fled from their homes in remote barrios and became squatters in well-protected but crowded cities. These displaced farmers are moving back to the barrios with the restoration of peace and order. The increase in rice production is one of the immediate effects of their return to the farm.

We have also suffered from two adverse effects of the cold war. Some of our own funds which could have been used for economic development have been diverted necessarily to our national defense program. A large share of free world resources which might have been used to speed up the economic and social progress of the less developed countries have also been diverted to armaments and defense establishments.

Such is the problem which we face in the field of agriculture. To cope with it, we have developed a practical, comprehensive program.

Our farmers need know-how and operating capital. The Government is determined that they shall have both.

This Administration is making available the funds needed by the farmers through the ACCFA, the rural banks, and other government credit agencies.

Our farmers are good credit risks. This fact is reflected in the repayment record of the cooperatives affiliated with the ACCFA. More than ninety per cent of last year's ACCFA crop loans to farmers has been repaid.

All the money in the world, however, would be useless if the farmers do not learn to use it wisely. This is where the scientist, the researcher, and the extension worker come in. They work as a team to provide the farmers with modern techniques and the know-how to invest their money with profit to themselves.

New roads, bridges, artesian wells, irrigation systems, health centers, and community development projects, are putting an end to stagnation in the barrios. Fresh life and new ideas are being funneled into our farming communities. Under the five-year highway development program, thousands of kilometers of feeder and barrio roads are being built, linking rural communities to towns and markets. Army engineers are working day and night, helping to speed up the completion of this program. The same energy and drive are being applied to the job of building artesian wells, health centers, and other facilities of wholesome barrio life.

Pre-fabricated schoolhouses will be constructed in the barrios where they are most urgently needed as part of a frontal attack on the problem of providing better education for our school children.

The implementation of the Government's policies on land tenure and land settlement is being accelerated. A new law has been enacted to improve tenancy relations and establish leasehold tenancy contracts by choice of the tenants themselves.

A program for self-sufficiency in our principal foodstuffs, particularly rice, eggs, meat, and dairy products is being implemented.

In the case of palay, price supports are being provided for the first time. Under this system, the NARIC will buy as much palay as our farmers are willing to sell, at a price giving them a fair return for their investment. Price supports should help to eliminate the profits obtained by speculators at the expense of the producers.

The quality of our principal export crops is constantly being improved. Livestock production is being increased.

Maximum use is being made of aid from the Foreign Operations Administration. Counterpart funds amounting to more than 120 million pesos have been appropriated to "match" FOA loans and grants totalling more than

100 million dollars. The projects include an integrated research program, control of plant pests and animal diseases, fertilizer distribution, gravity and pump irrigation projects.

Our delegations to the United Nations have supported measures to safeguard primary producers like the Philippines from disastrous price fluctuations. They have also proposed a fair adjustment between the prices of raw materials and the prices of manufactured goods, especially the capital equipment needed by the less developed countries.

Thus, we have placed this central problem of our economy under a concentrated, vigorous, and sustain attack.

Within the framework of our plan for a balanced economic development, we have given emphasis to the implementation of our farm program. Ours is an agricultural country. It is our concern to increase, diversify, and make more efficient our agricultural production. Increased production means better living, greater purchasing power for the rural communities where seventy-five per cent of our people live, more security, and wellbeing for all.

Our agricultural development is one of the essential bases for the development of industry, which we also need to build up a balanced economy and create jobs for that segment of our population which cannot be absorbed by the farms. Industrial growth will be stimulated by the availability of raw materials from agriculture and by the demand for finished products that the farmers will require. Agriculture in turn will benefit from industry's increasing use of raw materials from the farms. It is a creative, wealth-producing chain reaction which we are trying to start and sustain with our farm program.

More and more of our farming folk are being induced to stay on the land as we make their fields more productive and their villages better places to live in. Thus, we hope to enrich our rural communities and at the same time halt the drift of rural people to the cities, which are not yet ready to make fruitful use of their services. Our aim is to offer to our youth a future on the farm as attractive as any that they can find in the cities and towns.

The farm is one of the decisive arenas of our struggle to raise living standards. The future of his Administration—perhaps even the fate of the Republic—will largely depend on what happens or does not happen in our villages. This is true of the Philippines; it is also true of India, of Burma, of Indonesia. All these countries are trying to raise themselves by their bootstraps, racing against time to improve the lot of their peoples in the face of tremendous odds.

This is the challenge that we face today. We are called upon to telescope within the span of ten or twenty years



the economic and social development which normally might take a hundred years. And we are required by our history, our traditions, and the mandate of our people to do so within the democratic framework, without violence to our free institutions.

We cannot accomplish this task unless we close ranks. We are embarked, of our own free choice, on what may be described as a forced march. We have one supreme objective—to place in the hands of all our people—in the shortest possible time—the means to live in dignity, to work without fear, to prosper in freedom and peace. But to reach our goal we must be vigilant, hard-working, self-disciplined, and self-denying.

As we celebrate the spirit displayed here at Los Baños in the past, let us think of today's call to service. It is not a call to shoulder a gun on some far battlefield. It is a call to serve our fellow-countrymen right here at home.

Here at Los Baños are being created the weapons to fight poverty and want. In your hands are the skills and know-how to arm our people in the neglected rural areas with the means of getting greater benefit from their labors, of breaking through the walls of ignorance into the rich land of a modern free community. Are you willing to give that extra measure of devotion to our national ideal? Are you willing to go beyond the strict boundaries of duty to make sure that your weapons of productivity get into the hands of those who need them?

Your personal dedication to this need cannot be ordered. It must come from your hearts, from your own determination to speed the building of a strong, free Philippines. It is a call for volunteers. What is your answer *this time*?

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SPEECH OF PRESIDENT MAGSAYSAY AT THE UNITED NATIONS  
DAY LUNCHEON, FIESTA PAVILION, MANILA HOTEL, October  
24, 1954

MY FRIENDS:

**U**NITED NATIONS DAY is the closest the world has ever come to a truly international holiday. Embracing the many and different races, nationalities, and creeds of the earth, its celebration is dominated by the highest ideals of each of them. Christians and Moslems, Buddhists and the followers of the great faiths—all, we know, contribute their common hopes and aspirations—peace, justice, freedom, a life of plenty, and the brotherhood of man. Unfortunately, since the communist members worship no God, it is difficult to name their aspirators, but there is all too much reason to believe that power is their highest goal.

This is the ninth birthday of the United Nations. Next year at this time, the member states will undertake a thorough overhaul of the Charter with a view to eliminating its defects, strengthening its weak points, expanding its

scope to serve the needs of a swiftly moving atomic age. During the year ahead, the member nations would do well to give long and careful thought to the record of the years gone by. It is well to take pride and comfort from the successes and constructive achievements of the organization. But it is far more important and urgent today to examine the failures, to seek the reasons for those failures, and appraise their cost to mankind.

I think it will be found that only part of the fault lies in the mechanism of the United Nations. I think it will be found that the flaw has been in the minds of men—in the lack of firm purpose, in the fear of facing realities, in hesitancy to sacrifice short range advantage for permanent achievement. And I know that an honest appraisal of the cost will show a staggering set-back to the progress of mankind.

The United Nations and its many agencies have done a tremendous amount of good constructive work towards plans and means of bringing new high levels of health, education, and productivity to the newly developing nations of Asia, for example. All members of the free world have contributed generously to this cooperative effort. Some of the free powers, such as the United States and the United Kingdom, have carried on ambitious programs independently, aimed at the same goal of speeding the rising standard of living which has characterized free societies throughout history.

Much has been accomplished by these efforts, but only a small fraction of what *could* have been accomplished. Too many of the urgently needed projects are still in the blue-print stage, too many are delayed by limited resources. Why? Why is the free world, which has among its members the greatest combined strength in the world today in terms of human and material resources, delayed in repairing the ravages of the last war and in building a happier future?

There is one major reason for this delay, and our progress will continue to be retarded—perhaps even diminished—until we face that reason squarely, identify it courageously, and determine to eliminate it.

For years now the free world has been harassed and bled by a new kind of war. Some call it "cold war," implying that it is less serious than "hot war." I disagree. It has already conquered too many millions of free people, dragging them behind an iron curtain into slavery. It has already spread a new blight of imperialism over people who had long struggled for and finally won their independence. The free world must recognize this devious aggression as a real war for survival. It must unmask its perpetrators as ruthless imperialists who try to hide their lust for power behind hypocritical slogans of social reform.

As every school child knows, this aggressor—this wrecker of world peace—is international Communism. Its agents are the members of so-called Communist parties which exist wherever they are tolerated in the free nations of the world. Its objectives are world domination. Its shifting tactics of advance and retreat, of brute force and smiling conciliation, are skilfully designed to achieve that domination. These are facts admitted and boasted about by Communist leaders from Lenin to Malenkov and their satellites. How anyone today can still be deceived by Communist changes of tactic is the great mystery of our time.

What concerns us now, however, particularly as members of the United Nations, is that these tactics of subversion, sabotage, and disguised aggression are making a mockery of the very principles upon which the organization was founded. Instead of a world community living in harmony and cooperation based upon the fundamental human rights, we see a large peace-loving community terrorized and disrupted by coercion, fraud, and the threat of war. We see the common constructive effort of the United Nations undermined, blocked, and destroyed. The attention we owe to the needs of our people is distracted by the calculated sneak attacks of an openly declared enemy. The resources we could expend upon the development of a better life for the peoples of the world are diverted to arms we need for defense against growing aggressive military power. The cooperation upon which hope of the world rests is being methodically disrupted as friends are alienated from each other to make easier prey for the enemy.

This is the real problem of the United Nations. The rest we know can be overcome.

We are told that we have only two choices: co-existence with Communism or a war of mutual destruction. I disagree on two counts.

The plea for co-existence should not be addressed to the free world. We have shown, and continue to show, that this is our normal way of life. Peaceful co-existence is what characterizes the friendly relationship between the many different political, cultural, and economic systems represented in the free world. It is the Communist world which has shown again and again its unwillingness to accept peaceful co-existence. Whenever Communists have extended their hands in friendship, behind their back the other hand held a club and chains for the victim of their overtures. Only when they have demonstrated by deeds their permanent abandonment of such criminal intent can the free world afford to extend its hospitality and let down its guard.

As for war being the only other alternative, I think we underestimate the moral strength of man's desire for peace

as well as the practical common sense of the enemy. Communists are shrewd professional war-makers. They will not undertake an attack unless reasonably sure of success. Free world strength is much greater than their own, as they well know. Their appreciation of this fact is shown by their strategy of driving wedges between free world nations by every means from bribery to coercion. Let all the free nations stand in unity, firmly opposed to their methods and the Communists will not risk defeat. Let that unity remain solid while the strength of the free world grows and Communism may yet abandon brigandage as unprofitable, turning to a society of laws for its own survival.

That is the challenge that lies before the United Nations. Can narrow short range interests be put aside to meet a common threat, to back UN principles and ideals with unity and firm determination? If we yield to fear, we can hope only for the peace that goes with surrender. If we recognize and use our true strength, peace with freedom will be our reward.

## DECISIONS OF THE SUPREME COURT

[No. L-5629. 11 October 1954]

LILI SISON JARANILLA, with her husband ANTONIO JARANILLA, LITA SISON KALAW, with her husband AUGUSTO KALAW, ZENAIDA SISON, BONIFACIO SISON, JR., and RUFO SISON, represented by their guardian *ad litem* LILI SISON JARANILLA, plaintiffs and appellees, *vs.* CONSOLACIÓN GONZALES, VICENTA PUZON, with her husband DOMINGO PARAS, CARLOS PUZON, BELEN PUZON, with her husband ARTURO DE GUZMAN, ASELA PUZON, SALUD PUZON, ANGELA PUZON and JOSEFA MACASIEB SISON, defendants and appellants.

1. PLEADING AND PRACTICE; PARTIES; NECESSARY PARTIES; HUSBAND IS NOT A NECESSARY PARTY IN A CONTROVERSY INVOLVING PARAPHERNAL PROPERTY.—In a controversy involving the paraphernal property of the wife, the husband is not a necessary party.
2. *Id.*; SUMMONS; ALLEGED ERRONEOUS SERVICE OF SUMMONS SHOULD BE RAISED BEFORE JUDGMENT IS RENDERED; FAILURE TO RAISE POINT IS WAIVER OF RIGHT TO QUESTION LACK OF SERVICE; VOLUNTARY APPEARANCE BY ATTORNEY EQUIVALENT TO SERVICE.—If the duly appointed guardian *ad litem*, who is the mother of the minors, did not consider the summons served on her alone as a summons also on her minor children, or if she did not authorize her attorneys to represent her minor children, she should have raised the question in the case before or during the trial or thereafter but before judgment was rendered. The failure of the guardian *ad litem* and of her attorneys to raise the point of lack of service of summons upon the minors personally is a waiver on the part of said minors represented by their mother, their guardian *ad litem*, to question the lack of such service upon them personally. And the voluntary appearance of the attorneys in behalf of the defendants is equivalent to service (section 23, Rule 7, Rules of Court).

APPEAL from a judgment of the Court of First Instance of Pangasinan. Mejia, J.

The facts are stated in the opinion of the court.

*Augusto Kalaw* for plaintiffs and appellees.

*Vicente Bengzon* for defendants and appellants.

PADILLA, J.:

This is an appeal from a judgment of the Court of First Instance of Pangasinan rendered in civil case No. 11206, which declared that the judgment rendered in civil case No. 8967 of the same Court and the judgment of the Court of Appeals in CA-GR No. 2903-R reversing it on appeal are binding upon plaintiff Lili Sison Jaranilla but that said judgments, in so far as the plaintiffs Lita Sison Kalaw, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison are concerned, are null and void for lack of jurisdiction over

their persons by the courts rendering them; that the writ of execution in pursuance thereof issued therein against the aforesaid plaintiffs is null and void; and that after the judgment rendered herein shall have become final, said plaintiffs will be allowed to present evidence in support of the second cause of action alleged in their complaint, without costs. The judgment appealed from was rendered on a stipulation of facts which reads, as follows:

Come now the parties in the above-entitled case and in order to simplify the proceedings agree on the following facts:

1. That in Civil Case No. 8967 of this Court of Pangasinan, Consolación Gonzales, Vicenta, Carlos, Belen, Asela, Salud and Angela, all surnamed Puzon, widow and children of the deceased Rafael Puzon, respectively, were the plaintiffs, and Lourdes Ichon Vda. de Sison, was the original defendant.

2. That in her amended answer of June 13, 1946, in said case, the defendant therein, Lourdes Ichon Sison, stated that "it would be necessary to include (in the complaint) all the children of the deceased Bonifacio Sison (husband of defendant Lourdes Ichon) in substitution of the deceased; that the legitimate children are: Lili Sison, of legal age, married to Antonio Jaranilla, Lita Amelia Sison, 19 years, Zenaida Sison, 17 years, Bonifacio Sison, Jr., 15 years, and Rufo Sison, 12 years, all residing with defendant Lourdes Ichon de Sison in Urdaneta, Pangasinan, and that inasmuch as the last four are still minors, it would be necessary that a guardian *ad litem* be appointed for them, and it is suggested that defendant Lourdes Ichon de Sison be appointed as such.

3. That on June 25, 1946, the plaintiffs in said case again amended their complaint by naming therein as co-defendants the above-mentioned children of the deceased Bonifacio Sison and requested that their mother, the original defendant, be appointed as their guardian *ad litem* in the case, but Antonio Jaranilla, husband of Lili Sison Jaranilla, however, was not included as one of the party-defendants. The age and civil status of the children as stated in paragraph 2 hereof is hereby admitted by the parties to be true and correct at the time of the filing of the amended complaint just mentioned.

4. That on July 1, 1946, the Court issued the following order:

"No objection having been presented by the defendants to the admission of the second amended complaint filed by the plaintiffs in the above-entitled case, the same is hereby admitted.

"The Clerk of Court is hereby ordered to issue the corresponding summons against the new defendants Lili Sison and the minors Lita Amelia Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison, through their guardian *ad litem* Lourdes Ichon."

The plaintiffs herein agree that the above order was in fact issued without admitting that Lourdes Ichon Sison had already then been appointed their guardian *ad litem*.

5. That on July 1, 1946, the Court issued summons addressed "to Lili Sison, Urdaneta, Pangasinan, and the minors Lita Amelia Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison, represented by their guardian *ad litem*, Lourdes Ichon, Urdaneta, Pangasinan," which was served on Lourdes I. Sison on July 9, 1946, and on Lili Sison Jaranilla on July 15, 1946, but no summons were personally ever served to each of the minors Lita Amelia



Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison. A certified copy of said summons and its return is attached as Annex "B" of the herein plaintiffs' motion for reconsideration dated July 14, 1950, and is hereby incorporated by reference as part of this stipulation of facts.

6. That the property object of the litigation in said case was originally the conjugal property of the spouses Bonifacio Sison and Lourdes Ichon, which the therein plaintiffs, through Rafael Puzon, claimed to have acquired from Josefa Macasieb Vda. de Sison.

7. That on July 17, 1946, Attorneys Perez, Gayagoy, Abenojar and Ignacio D. Castillo, filed an answer to the amended complaint stated to be on behalf of the new defendants Lili Sison, Lita Amelia Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison. This stipulation is subject to the plaintiffs' reservation in paragraph 14 hereof.

8. That on September 1, 1946, Attys. Perez, Abenojar and Ignacio D. Castillo, filed an answer, special defense and counterclaim, alleging among others, "that the defendant Lourdes Ichon Vda. de Sison and the other defendants, hereby reproduce all the allegations stated by them in the last answer dated June 13, 1946 and July 17, 1946, filed by them in this case, as their answer to the last and second amended complaint of the plaintiffs." This stipulation is also subject to plaintiffs' reservation in paragraph 14.

9. That Atty. Ignacio D. Castillo, appearing for the defendants, stated in an affidavit attached to the amended answer of September 5, 1946, "that Lili Sison, Lita Amelia Sison, Zenaida Sison, Bonifacio Sison, Jr., were only summoned last July, 1946, and that they have so far filed only one answer." This stipulation admits as a fact that such affidavit was filed without the herein plaintiffs admitting its materiality and competency which they herewith question and is subject to the reservation in paragraph 14.

10. That upon petition filed by attorney for the plaintiffs in said case, the hearing of Civil Case No. 8967 was set for September 12, 1946, and on said date the Court issued the following order:

"Upon petition of Atty. Ignacio D. Castillo, the petitioner herein, Lourdes Ichon Vda. de Sison, is hereby appointed as guardian *ad litem* of her minor children, namely, Lita Amelia Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison, to represent them in this proceeding. The said petitioner is hereby required to take her oath before discharging her duties as such guardian *ad litem*."

11. That the minutes of the Court on the hearing on September 12, 1946, certifies, among other things, that "before proceeding with the hearing of the case, counsel for the defendants, prayed that defendant Lourdes Ichon Vda. de Sison be appointed as guardian *ad litem* of her minor children Lita Amelia Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison to represent them in this case. The Court granted the petition. Whereupon, defendant Lourdes Ichon Vda. de Sison took her oath as such guardian *ad litem* before Deputy Clerk of this Court, Mr. Genaro Ferrer.

12. That on February 11, 1948, upon motion of the defendants therein, the Court of First Instance rendered an order dismissing the complaint in Civil Case No. 8967 after plaintiffs had introduced all their evidence and after the defendant had presented five witnesses, one of them being Lourdes Ichon who was still testifying but before the defense had completed their evidence.

13. That the plaintiffs brought up the case on appeal to the Court of Appeals, G. R. No. 2903-R and said Court of Appeals, on

September 27, 1949, reversed the order of dismissal and rendered a decision in favor of the plaintiffs, applying the doctrine in the case of *Arroyo vs. Azur*, 43 Off. Gaz., 54.

14. That in the Court of First Instance, in the Court of Appeals and in the Supreme Court, Attys. Perez, Santos & Abenojar, Victoriano Gayagoy, Ignacio D. Castillo, Aquino & Allas and Porfirio V. Sison have made it appear in all their pleadings and appearances that they were appearing for all of the defendants in the case, but the herein plaintiffs deny that they had authorized said attorneys to represent them in any way in said Civil Case No. 8967.

15. That copy of the motion for the execution of the judgment and copy of the writ of execution issued pursuant thereto were served upon the attorney of record of the defendants, but were not served personally again upon the herein plaintiffs.

16. That in accordance with the writ of execution, the Provincial Sheriff of Pangasinan placed the herein defendants in possession of the land involved in Civil Case No. 8967.

17. The parties agree that the plaintiffs herein, except Lili Sison, will testify that they had not known of Civil Case No. 8967 until their mother informed them about it after the denial of the Supreme Court of the petition for certiorari, without the defendants admitting the veracity of such fact.

18. That counsel for the plaintiffs herein married the plaintiff Lita Sison on December 16, 1948, and was practising attorney since 1945, but claims that he had no knowledge of Civil Case No. 8967 until he was informed by his mother-in-law, Lourdes Sison, of its defeat.

Wherefore, the parties submit the first cause of action for decision on the above stipulation of facts, with the reservation contained in plaintiffs' motion of September 20, 1951.

Parties further pray that they be granted a period of 10 days from date to submit simultaneous memorandum and an additional 5 days to submit reply memorandum.

Lingayen, Pangasinan, September 20, 1951.

(Sgd.) AUGUSTO KALAW

*Attorney for the plaintiffs*

(Sgd.) VICENTE BENGZON

*Attorney for the defendants*

and the following additional stipulation of facts designated as paragraph 13-a of the stipulation:

That counsel for the defendants filed in the Supreme Court a petition for a writ of certiorari against the decision of the Court of Appeals, G. R. No. L-3444, and the Supreme Court in its resolution of January 31, 1950, ordered the dismissal of the petition for certiorari for lack of merit without requiring the respondents to answer it. This stipulation is subject to the reservation in paragraph 14.

There is no doubt that plaintiff Lili Sison Jaranilla is bound by the judgment rendered in civil case No. 8967 of the Court of First Instance of Pangasinan and reversed on appeal by the Court of Appeals in CA-GR No. 2903-R, because her husband was not a necessary party, the controversy therein involved being her share in the parcels of land which she had inherited from her deceased father.

As to the second point raised and decided in favor of the rest of the plaintiffs by the Court of First Instance

of Pangasinan, it appears that the plaintiffs who were minors except Lili Sison Jaranilla were not summoned in the action (civil case No. 8967), as provided for in section 10, Rule 7; that Lourdes Ichon Vda. de Sison, the defendant therein, represented to the Court that as her children were necessary parties they should be joined as defendants; that on 25 June 1946, as prayed for by the defendant therein, the plaintiffs therein, amended their complaint impleading said children who, as the agreed statement of facts stipulates, with the exception of Lili Sison who was of age, were minors over 15 years of age and Rufo, 12 years old; that on 1 July 1946 the Court admitted the amended complaint and ordered the new defendants to be summoned; that the summons issued on that date by the clerk of court was served on the 9th of that month upon Lourdes Ichon Vda. de Sison and on the 15th of that month upon Lili Sison Jaranilla that on 17 July 1946 attorneys Perez, Gayagoy, Abenojar and Ignacio D. Castillo filed an answer to the amended complaint in behalf of the impleaded defendants Lili Sison Jaranilla, Lita Sison, Zenaida Sison, Bonifacio Sison, Jr., and Rufo Sison; that on 12 September 1946, as prayed for by the attorney appearing for the defendant therein, Lourdes Ichon Vda. de Sison was appointed guardian *ad litem* to represent her minor children and qualified as such by taking her oath before deputy clerk of court Genaro Ferrer; and that in the Court of First Instance, Court of Appeals and Supreme Court, attorneys Perez, Gayagoy, Santos & Abenojar, Ignacio D. Castillo, Aquino & Allas and Porfirio V. Sison represented in all their pleadings that they were appearing for all the defendants therein. Taking into consideration all the circumstances of the case, we are of the opinion that the appearance of the attorneys in behalf of the minors in the action is equivalent to service.<sup>1</sup> The denial by the minors of having authorized said attorneys to represent them may be conceded but such denial does not destroy the presumption that the services of the attorneys had been engaged by the guardian *ad litem* not only to represent her but also the minors. If the duly appointed guardian *ad litem*, who is the mother of the minors, did not consider the summons served on her alone as a summons also on her minor children, or if she did not authorize her attorneys to represent her minor children, she should have raised the question in the case before or during the trial or thereafter but before judgment was rendered. The failure of the guardian *ad litem* and of her attorneys to raise the point of lack of summons service upon the minors personally is a waiver on the part of said minors represented

<sup>1</sup> Section 23, Rule 7

by their mother, their guardian *ad litem*, to question the lack of such service upon them personally. As already stated, the voluntary appearance of the attorneys not only for Lourdes Ichon Vda. de Sison but also for the minors is equivalent to service.

The judgment appealed from, in so far as it annuls the judgment rendered in civil case No. 8967 and the judgment of the Court of Appeals in CA-GR No. 2903-R reversing it on appeal and the writ of execution issued therein, is reversed, without pronouncement as to costs.

*Parás, C. J., Pablo, Montemayor, A. Reyes, Jugo, Concepción, and J. B. L. Reyes, JJ., concur.*

*Judgment reversed.*

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[No. L-6730. October 15, 1954]

PEDRO GABRIEL and AVELINO NATIVIDAD, petitioners, *vs.*  
PEOPLE OF THE PHILIPPINES and COURT OF APPEALS  
(First Division), respondents.

1. TRESPASS TO DWELLING; OPPOSITION TO ENTER NEED NOT BE EXPRESSED BY DIRECT WORDS; OPPOSITION BY ACTION OF HOUSEHOLDER.—Prohibition to enter a dwelling does not have to be expressed in words. It may be inferred where the lady of the house tells defendants to wait on the porch and closes the door behind her as she enters the drawing room.
2. *Id.*; *Id.*; *Id.*; MERE SUSPICION THAT HOUSEHOLDER IS HIDING TRANSFORMER USED FOR STEALING ELECTRICITY DOES NOT GIVE MERALCO LINE INSPECTORS RIGHT TO ENTER HOUSE AGAINST HIS WILL.—Mere suspicion that the householder is hiding a transformer used by him in stealing electricity in his house does not give the Meralco line inspectors the right to enter the house against his will.

APPEAL from a decision of the Court of Appeals dated March 28, 1953.

The facts are stated in the opinion of the court.

*Ross, Selph, Carrascoso & Janda* for petitioners and appellants.

*Assistant Solicitor General Guillermo E. Torres* and *Solicitor Felicísimo R. Rosete* for the respondents and appellees.

REYES, A., *J.*:

This is an appeal from a judgment of the Court of Appeals, convicting the appellants Pedro Gabriel and Avelino Natividad of simple trespass to dwelling on facts found by said court to be as follows:

“\* \* \* Sherman Jones and his wife, Josefina Jones, were occupying the house No. 9-B, M. H. del Pilar St., Malabon, Rizal, having as neighbor their comadre Mariquita Beltran. The electric meter of the premises was installed on a wall in the balcony, and visible from the porch of the house (Exhibit 1). At about 7:00 o'clock

in the evening of April 19, 1949, accused Pedro Gabriel, Avelino Trinidad and Miguel Evangelista arrived at the house, presented themselves as Meralco light inspectors to Mrs. Jones who was then on the stairs of the house with Mariquita and inquired from the ladies for Sherman Jones. Mrs. Jones told them to wait on the porch; she entered the living room, closed the door behind her and went to the family bedroom where Sherman was then in the act of changing his clothes. While Mrs. Jones was inside the bedroom and informing her husband of the presence of the Meralco inspectors, accused Gabriel inspected the electric meter and then shouted to his co-accused Natividad: 'Naty, atras ang contador.' Natividad rushed into the living room and then entered the bedroom where Sherman and his wife were talking. Natividad pushed the door of the bedroom with such force that the said door brushed aside Mrs. Jones who was then leaving behind it. Accused Gabriel followed Natividad to the bedroom and, with the help of flashlights, both searched for a gadget which they suspected Sherman used in order to steal electric fluid. Notwithstanding Sherman's protest of their intrusion, the two accused continued their search. Finding that Sherman meant business, the intruders left the bedroom hastily, boarded their jeep and went away with the other accused Evangelista to Sangangdaan Street where they met policeman Pablo Malosido of Calocan. The trio requested the policeman accompany them to Sherman's house in order to explain to him that they had no intention to do him any harm. The policeman accompanied them, but upon noticing the presence of several Americans in the house, they left. They noticed later that a truck commonly known as 6 x 6 started from Sherman's house and followed them. They were able to hide and later went to the municipal building of Calocan, at which Sherman and his companions subsequently arrived to complain. Sherman's complaint, however, was referred to the police authorities of Malabon who had jurisdiction over the case."

In asking for the reversal of the judgment below counsel for appellants argue that inasmuch as the original entry was with the permission of the occupant of the house and therefore lawful, nothing that happened afterwards could "convert the original lawful entry into an unlawful one." The argument assumes that appellants entered a dwelling with the consent of the householder. But the assumption is gratuitous and unwarranted, the Court of Appeals having found "that the entry was against the will of the spouses." That will was, we think, clearly manifested by the lady of the house when she told appellants to wait on the porch and closed the door behind her as she entered the drawing room. She did not, it is true, in so many words tell the appellants not to enter. But when she made them wait outside and shut the door to the interior of the house, her action spoke louder than words. The porch is an open part of the house, and being allowed to wait there under the circumstances mentioned can in no sense be taken as entry to a dwelling with the consent of the dweller.

Counsel cite the cases of *U. S. vs. Dionisio and Del Rosario*, 12 Phil., 283; *U. S. vs. Flemister*, 1 Phil., 354; and *People vs. De Peralta*, 42 Phil., 69. But those cases were decided upon facts different from those of the present case.

In the case first cited, *U. S. vs. Dionisio and Del Rosario*, the defendants found the principal door of a house half-open. Entering without opposition from the occupant of the lower part of the house, who was present, they proceeded to the upper story, also without opposition, and there conversed with one of the inmates, who invited them to sit down and allowed them to stay for about two hours. Then trouble arose when defendants, posing as detectives, started doing something illegal. In declaring defendants not guilty of the crime of trespass to dwelling, this court there held that the facts and circumstances from which, in a given case, the opposition of the occupant may be inferred, must have been in existence prior to or at the time of the entry, and in no event can facts arising after an entry has been secured with the express or tacit consent of the occupant change the character of the entry from one with the assent of the occupant to one contrary thereto. That case is to be distinguished from the one before us in that there the defendants entered a half-opened door and went *inside* the house without opposition, express or implied, from any of the occupants. Here, on the other hand, the lady of the house clearly—be it only impliedly—manifested her opposition to appellants' entry by telling them to wait on the porch and closing the door behind her as she left them there.

In the second case, *U. S. vs. Flemister*, the defendant, an American, went to a ball uninvited, danced with somebody and then left. Returning a short time thereafter, he was met near the door by the host, who took him by the hand and asked him if he had come to dance and even invited him to be seated, but tried to prevent him from entering the *sala* where there was a guest, another American, with whom he had a quarrel pending. The defendant, however, rudely brushed the host aside, proceeded to the *sala* and quarreled with the other American. "It seems clear to us," said this Court in declaring the defendant not guilty of trespass to dwelling, "that the purpose of the owner of the house was to prohibit the defendant not from entering his house but from entering the *sala* in order to avoid a quarrel between the two Americans. His taking the defendant by the hand, asking him if he came to dance, and requesting him to be seated, are inconsistent with the idea that he was attempting to keep the defendant from entering the house." Again, unlike the appellants in the present case, the defendant in the case cited was not prohibited from entering the house; on the contrary, it would appear that he was welcomed into it.

In the third case, *People vs. De Peralta*, the accused, the new president of the Philippine Marine Union, called at the door of a room which his predecessor in office was



allowed to occupy as his dwelling in a house rented by the union, pushed the said door and without the permission of the occupant entered the room to take away a desk glass which he believed was union property. There was no evidence that the occupant "had expressed his will in the sense of prohibiting (the accused) from entering his room," and it was to be supposed, this Court said, "that the members of the Philippine Marine Union, among them the accused, had some familiarity which warrants entrance into the room occupied by the president of the association, particularly when we consider the hour at which the act in question happened (between half past ten and eleven in the morning), the fact that the door of the room was not barricaded or locked with a key, and the circumstance that the room in question was part of the house rented to his association." Upon those facts, this Court acquitted the accused of the charge of trespass to dwelling, following the uniform doctrine here and in Spain that "this crime is committed when a person enters another's dwelling *against* the will of the occupant, but not when the entrance is effected without his knowledge or opposition." It is to be noted that the entry in that case was effected without express or implied opposition from the occupant of the room and under circumstances warranting an entrance without previous leave. In the present case, the entry was, as already noted, against the will of the lady of the house, who, by her action if not by direct words, made it plain to the appellants that they were not to enter her dwelling.

Lastly, counsel contend that appellants are exempt from criminal liability under the third paragraph of article 280 of the Revised Penal Code, because "they rendered a service to justice" when, as Meralco line inspectors, they "followed Mrs. Sherman Jones to the bedroom" and there found her husband "hiding a transformer in an 'aparador' ". Here again, counsel assume something which was not believed by the Court of Appeals, that is, that appellants saw Jones in the act of hiding a transformer used by him "in stealing electricity," this claim being characterized by the court as nothing but a "vain effort on the part of the appellants to fit the facts of the case to the provisions of the Revised Penal Code to the effect that a person who enters a dwelling for the purpose of rendering service to justice, is not guilty of trespass." In other words, the Court of Appeals believed that appellants merely *suspected* that there was a transformer in the house. That alone did not give them the right to enter the house against the will of its owner, unarmed as they were with a search warrant.

It appearing that the judgment appealed from is in accordance with law and the facts as found by the Court

of Appeals, the same is hereby affirmed, with costs against the appellants.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Concepcion, and J. B. L. Reyes, JJ., concur.*

*Judgment affirmed.*

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[No. L-7251. October 18, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellant,  
*vs.* IRENEA ALIPAO, defendant and appellee

1. CRIMINAL PROCEDURE; CONTINUANCE, WHEN IT SHOULD BE GRANTED.—Where a continuance is asked for the first time on the ground that the witnesses can not appear in court because of the inclement weather, it should be granted.
2. *Id.*; *Id.*; RIGHT OF DEFENDANT TO SPEEDY TRIAL; LIMITATION THEREON.—The right of a defendant to speedy trial should not be carried to the extreme of practically denying the prosecution its day in court for causes beyond its control.

APPEAL from an order of the Court of First Instance of Surigao. Maglanoc, *J.*

The facts are stated in the opinion of the court.

*Assistant Solicitor General Guillermo E. Torres and Solicitor Meliton G. Soliman for the plaintiff and appellant. Bernardino C. Almeda for defendant and appellee.*

BENGZON, *J.*:

The fiscal of Surigao has appealed from the order of the court of that province dismissing the information charging Irene Alipao with oral defamation.

The matter originated from the justice of the peace court, wherein a fine had been imposed. The defendant appealed. The corresponding information was filed in the higher court, later substituted by an amended information.

When in the morning of July 2, 1952, the case was called for hearing, the prosecution moved for postponement, the complaining witness being absent because there was a typhoon on that day. The court advertent to the presence of the accused and her witnesses and the right of defendants to speedy trial, denied the postponement, and dismissed the proceeding. A motion to reconsider failed. Hence this appeal, which may be entertained, because, at least it does not appear that the accused had pleaded to the information. The order of dismissal reads as follows:

“The Provincial Fiscal moves for the postponement of the trial of this case on the ground that his witnesses have failed to come because there is now a typhoon. The defense objects to the motion for postponement on the ground that the accused and her witnesses are from the same place as the complaining witness

and other witnesses for the prosecution; but in spite of this fact said accused and said witnesses have come and there is no reason why the witnesses for the prosecution should not have come.

The accused is entitled to a speedy trial. She has come with her witnesses inspite of the inclement weather. There is no reason why the trial of this case should be postponed.

*Wherefore*, this case is hereby dismissed with costs *de oficio* and the bail bond of the accused, released."

There is no question that postponements are discretionary with the court. However, as the fiscal alleged in his motion to reconsider, in the afternoon of July 1, 1952 the local station of the Weather Bureau issued a warning to the public of a storm approaching Surigao, with strong winds expected the following day; the next day at 8 a.m. another typhoon warning was published, announcing that Surigao would be lashed by the typhoon between eleven and 2 at noon "to-day"; there were strong winds and heavy rains that blew down some houses; and because of the weather the complainant and her two witnesses, who resided in barrio Rizal and had small children, could not appear in court.

Under the circumstances, we believe the continuance should have been granted considering it was *for the first time* asked by the Government. The court's concern for the defendant's right to speedy trial is commendable; but it should not be carried to the extreme of practically denying the prosecution its day in court for causes beyond its control.

That the accused had come from the same place where the complainant lived, is not conclusive. The judge was advised that whereas the accused had no children, the complainant had several small boys to take care of. And the condition of their respective dwellings—in relation to the stormy weather—does not appear. The presence of complainant's husband—pointed out by defense—is no reason to say that she could have come if she wanted. A man may be willing to face consequences which it is unfair to require a woman to face. That the judge and the court personnel were in court, may be due either to their high degree of sense of duty or to the sturdiness of the Government buildings. A mother out in the barrio, will hesitate to go to town five kilometers distant, knowing the probability of being overtaken by the storm, and of finding no means of transportation.

Wherefore, the order of dismissal will be reversed, and the record will be remanded for further proceedings. So ordered.

*Páras, C. J., Pablo, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, Concepcion, and J. B. L. Reyes, JJ., concur.*

*Order reversed.*

[No. L-5877. September 28, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee *vs.*  
ARTURO MENDOZA, defendant and appellant

BIGAMY; MARRIAGE CONTRACTED DURING THE EXISTENCE OF THE FIRST MARRIAGE IS "AB INITIO"; NO JUDICIAL DECREE IS NECESSARY TO ESTABLISH ITS INVALIDITY.—A subsequent marriage contracted by any person during the lifetime of his espouse is illegal and void from its performance, and no judicial decree is necessary to establish its invalidity. A prosecution for bigamy based on said void marriage will not lie.

APPEAL from a judgment of the Court of First Instance of Laguna. Yatco, *J.*

The facts are stated in the opinion of the court.

*Nestor A. Andrada* for defendant and appellant.

*Solicitor General Pompeyo Diaz* and *Solicitor Felicisimo R. Rosete* for plaintiff and appellee.

PARÁS, *C. J.*:

The defendant, Arturo Mendoza, has appealed from a judgment of the Court of First Instance of Laguna, finding him guilty of the crime of bigamy and sentencing him to imprisonment for an indeterminate term of from 6 months and 1 day to 6 years, with costs.

The following facts are undisputed: On August 5, 1936, the appellant and Jovita de Asis were married in Marikina, Rizal. On May 14, 1941, during the subsistence of the first marriage, the appellant was married to Olga Lema in the City of Manila. On February 2, 1943, Jovita de Asis died. On August 19, 1949, the appellant contracted another marriage with Carmencita Panlilio in Calamba, Laguna. This last marriage gave rise to his prosecution for and conviction of the crime of bigamy.

The appellant contends that his marriage with Olga Lema on May 14, 1941 is null and void and, therefore, non-existent, having been contracted while his first marriage with Jovita de Asis August 5, 1936 was still in effect, and that his third marriage to Carmencita Panlilio on August 19, 1949 cannot be the basis of a charge for bigamy because it took place after the death of Jovita de Asis. The Solicitor General, however, argues that, even assuming that appellant's second marriage to Olga Lema is void, he is not except from criminal liability, in the absence of a previous judicial annulment of said bigamous marriage; and the case of *People vs. Cotas*, 40 Off. Gaz., 3134, is cited.

The decision invoked by the Solicitor General, rendered by the Court of Appeals, is not controlling. Said case is essentially different, because the defendant therein, Jose Cotas, impeached the validity of his first marriage for lack of necessary formalities, and the Court of Appeals found his factual contention to be without merit.

In the case at bar, it is admitted that appellant's second marriage with Olga Lema was contracted during the existence of his first marriage with Jovita de Asis. Section 29 of the marriage Law (Act 3613), in force at the time the appellant contracted his second marriage in 1941, provides as follows:

*Illegal marriage.*—Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless:

(a) The first marriage was annulled or dissolved;

(b) The first spouse had been absent for seven consecutive years at the time of the second marriage without the spouse present having news of the absentee being alive, or the absentee being generally considered as dead and believed to be so by the spouse present at the time of contracting such subsequent marriage, the marriage as entrusted being valid in either case until declared null and void by a competent court.

This statutory provision plainly makes a subsequent marriage contracted by any person during the lifetime of his first spouse illegal and void from its performance, and no judicial decree is necessary to establish its invalidity, as distinguished from mere annulable marriages. There is here no pretense that appellant's second marriage with Olga Lema was contracted in the belief that the first spouse, Jovita de Asis, had been absent for seven consecutive years or generally considered as dead, so as to render said marriage valid until declared null and void by a competent court.

Wherefore, the appealed judgment is reversed and the defendant-appellant acquitted, with costs *de officio*. So ordered.

*Pablo, Bengzon, Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.*

REYES, J., with whom concur PADILLA and MONTEMAYOR, JJ., dissenting:

I dissent.

Article 349 of the Revised Penal Code punishes with *prisión mayor* "any person who shall contract a second or subsequent marriage before the former marriage has been *legally* dissolved."

Though the logician may say that where the former marriage was void there would be nothing to dissolve, still it is not for the spouses to judge whether that marriage was void or not. That judgment is reserved to the courts. As Viada says, "La santidad e importancia del matrimonio no permite que los casados juzguen por si mismos de su nulidad; esta ha de someterse precisamente al juicio del Tribunal competente, y cuando este declare la nulidad del matrimonio, y solo entonces, se tendra por nulo; mientras

no exista esta declaración, la presunción esta siempre a favor de la validez del matrimonio, y de consiguiente, el que contrae otro segundo antes de dicha declaración de nulidad, no puede menos de incurrir la pena de este artículo." (3 Vida, Código Penal, p. 275.)

"This is a sound opinion," says Mr. Justice Tuason in the case of *People vs. Jose Cotas*, (CA), 40 Off. Gaz., 3145 "and is in line with the well-known rule established in cases of adultery, that 'until by competent authority in a final judgment the marriage contract is set aside, the offense to the vows taken and the attack on the family exists.'"

*Judgment reversed.*

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[No. L-6205. September 28, 1954]

DIONISIA CAÑAVERAL and RUFINO BAUTISTA, petitioners,  
*vs.* THE HONORABLE JUDGE DEMETRIO C. ENCARNACION  
OF THE COURT OF FIRST INSTANCE OF MANILA (Branch  
I), SERENIDAD V. SURIO and MAXIMO VILLACORTA, re-  
spondents.

COURT OF FIRST INSTANCE; JURISDICTION OVER CASES APPEALED FROM  
INFERIOR COURTS.—Although the Court of First Instance had  
no *appellate* jurisdiction to decide the ejectment case in question  
on the merits, inasmuch as the municipal court had no original  
jurisdiction over said case, in view of the question of title to  
real property upon which the right of possession involved  
therein was dependent (*Teodoro vs. Balatbat*, L-6314, Jan-  
uary 22, 1954), said court of first instance had *original* juris-  
diction to pass upon such issue, no objection to the exercise  
of such jurisdiction having been interposed by any of the  
parties.

ORIGINAL ACTION in the Supreme Court. Mandamus  
and/or certiorari.

The facts are stated in the opinion of the court.

*Jose Q. Calingo* for petitioners.

*Fojas & Fojas* for respondents.

CONCEPCION, J.:

This is a petition for certiorari and mandamus to set  
aside and annul a decision rendered by the Court of First  
Instance of Manila in Civil Case No. 13306 thereof, en-  
titled "*Serenidad V. Surio and Maximo Villacorta vs.*  
*Dionisia Cañaverl and Rufino Bautista*", as well as an  
order of said court denying a reconsideration of said  
decision, and to compel said court to remand the case  
to the Municipal Court of Manila "for further proceed-  
ings in accordance with section 10, Rule 40, of the Rules  
of Court."



It appears that on April 19, 1949, Dionisia Cañaveral executed, with the consent of her husband, Rufino Bautista, an instrument, entitled "Deed of Pacto de Retro Sale," conveying, to Serenidad Surio, married to Maximo Villacorta, "two parcels of land with the building and improvements thereon, situated at 1403 Basilio, Sampaloc, Manila" and more particularly described in said document, subject to redemption within 12 months and to the right of the vendor to "continue occupying the premises in the capacity of a lessee at a monthly rent of ₱40 within a period of one year." On November 4, 1950, the Villacortas instituted in the Municipal Court of Manila Civil Case No. 13621, against the Bautistas, for illegal detainer. In the complaint therein filed, the Villacortas alleged that they are owners of the property above referred to, by virtue of said "Deed of Pacto de Retro Sale," and that the Bautistas refuse to vacate said property despite their failure to pay the agreed monthly rental and the repeated demands made by the Villacortas. Subsequently thereto, or on December 19, 1950, the Bautistas commenced Civil Case No. 12803 of the Court of First Instance of Manila, against the Villacortas, for a declaration, among other things, that the deed already adverted to does not express the true intent of the parties thereto, which was alleged to be only to make a "contract of loan with security." This pretense was reiterated by the Bautistas in their answer in the ejectment case, in which pleading they, likewise, alleged the pendency of said Civil Case No. 12303 of the Court of First Instance of Manila. In said answer, the Bautistas, also, contested the alleged right of the Villacortas to the possession of the property in dispute, upon the ground that the same belongs to the former and that the true intent of the parties to the aforementioned deed was merely to constitute a mortgage. After due trial, the municipal court issued an order, dated February 2, 1951, reading:

"Considering that according to the evidence adduced by the parties in this case, the main issue that is raised before the Court is the question of ownership; and considering that the question of possession cannot be decided in this instant without first deciding the question of ownership, the Court finds it has no jurisdiction to proceed further.

Wherefore, this case is hereby dismissed. Without pronouncement as to costs." (Record p. 29.)

The Villacortas appealed from this order to the Court of First Instance, where the case was docketed as Civil Case No. 13306 and the Bautistas reproduced the answer filed by them in the municipal court. In due course the court of first instance, then presided over by Hon. Demetrio Encarnacion, Judge, thereafter rendered a de-

cision, dated February 20, 1952, the dispositive part of which is as follows:

"Por todo lo expuesto, encontrando el Juzgado bien fundada la demanda, con gran preponderancia de pruebas a favor de los demandantes, se dicta sentencia condenando a los demandados a pagar a dichos demandantes los alquileres arriba reclamados, de P240 acumulados desde Abril 19, 1949 hasta Octubre 19, 1950, más P40 mensuales desde esta fecha hasta que se vacuen las propiedades en cuestión y se entreguen a los demandantes.

Quedan ordenados los demandados a desalojar las propiedades en cuestión y a pagar las costas del juicio de ambas instancias." (Record, p. 59.)

A reconsideration of this decision having been denied, the Bautistas filed the petition for certiorari and mandamus now under consideration. They claim that the court of first instance had no appellate jurisdiction to decide the case on the merits, because the municipal court had no jurisdiction to entertain the same, the issue of possession involved therein being dependent upon the question of title to the immovable property in litigation, which was raised in their answer. This pretense was not sustained by respondent judge, upon the ground that "la defensa de los demandados, de que el convenio era una simple hipoteca entre ellos, \* \* \* es inmaterial en la presente causa, habiendo habido un convenio formal de pagar los alquileres a los demandantes." However, if, as contended by the Bautistas, the parties to the deed above referred to merely intended to constitute a mortgage, not to make a conditional sale, with a contract of lease, as said instrument purports to be, then the stipulation contained therein relative to said lease and to the payment of rentals must have been devised solely for the purpose of cloaking the payment of interest. Hence, said defense was very material to the right of possession, which is the gist of the case.

Respondent Judge, likewise, held that said defense of the petitioners herein is barred by the fact that Civil Case No. 12803 of the Court of First Instance of Manila—in which the Bautistas sought a declaration that the contract in question was not a conditional sale, but a loan guaranteed by a mortgaged—was dismissed on August 15, 1951, for failure of the Bautistas to appear on the date set for the hearing thereof. This conclusion is well taken for the order of dismissal was unqualified and, hence, it constituted "an adjudication upon the merits," and, a final determination adverse to the aforesaid pretense of the Bautistas, as plaintiffs in said case No. 12803 and as defendants in case No. 13306 (section 4, Rule 30, Rules of Court).

Although the Court of First Instance had no *appellate* jurisdiction to decide the ejectment case on the merits, in-

asmuch as the municipal court had no *original* jurisdiction over said case, in view of the question of title to real property, upon which the right of possession was dependent (Pedro Teodoro *vs.* Agapito Balatbat et al., G. R. No. L-6314, decided on January 22, 1954) said court of first instance had *original* jurisdiction to pass upon such issue. What is more, it did exercise its original jurisdiction without any objection on the part of the Bautistas. Indeed in their motion for reconsideration dated March 1, 1952, the latter merely assailed the *accuracy* of the findings of the court of first instance on the merits of the case, thus clearly accepting and, even, involving, the jurisdiction of the court to pass upon the same. The Bautistas did not question said jurisdiction until March 12, 1952, when they filed a pleading entitled "additional ground for the reconsideration of the decision of the Court", alleging, for the *first* time, that the "Court had no jurisdiction to try the case on the merits". It was, however, too late to raise this issue, for the court had original jurisdiction over the case and had exercised it with the implied consent of the Bautistas (Amor *vs.* Gonzales, 42 Off. Gaz. [No. 12] p. 3203, 76 Phil., 481; Zapanta *vs.* Bartolome, et al., CA-G. R. No. 2592, April 27, 1949, 46 Off. Gaz. [11] 5447). As provided in section 11, Rule 40 of the Rules of Court:

"A case tried by an inferior court without jurisdiction over the subject-matter shall be dismissed on appeal by the Court of First Instance. But instead of dismissing the case, the Court of First Instance in the exercise of its original jurisdiction, may try the case on the merits if the parties therein file their pleadings and go to the trial without any objection to such jurisdiction."

In view of the foregoing, the petition is hereby denied and the case dismissed, with costs against the petitioners.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Bautista Angelo, and J. B. L. Reyes, JJ., concur.*

*Petition denied.*

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[No. L-6801. September 28, 1954]

HERBERT BROWNELL, JR., attorney general of the United States, as successor of the Philippine Alien Property Administrator, plaintiff and appellant, *vs.* MACARIO BAUTISTA, defendant and appellee, REPUBLIC OF THE PHILIPPINES, intervenor and appellant.

1. INTERNATIONAL LAW; SEIZURE AND SEQUESTRATION OF ENEMY-OWNED PROPERTIES.—It is a well-settled rule that the Congress of the United States, in time of war, may authorize and provide for the seizure and sequestration, through executive channels, of properties believed to be enemy-owned, if adequate provision

be made for a return in case of mistake. (*Stoehr v. Wallace*, 255 U. S. 239, 65 L. ed., 604, 612; *Central Union Trust Co. vs. Garvan*, 254 U. S. 554, 65 L. Ed., 403.)

2. ID.; ID.; PHILIPPINE PROPERTY ACT OF 1946; EXTRATERRITORIAL EFFECT IN THE PHILIPPINES AFTER JULY 4, 1946.—Can the Philippine Alien Property Administrator invoke the Philippine Property Act of 1946 to enforce his vesting order or to compel compliance with his demand for possession of the properties vested, in spite of the proclamation of Philippine independence on July 4, 1946? *Held*: “The consent of the Philippine Government to the application of the Philippine Property Act of 1946 to the Philippines after independence was given, not only by the Executive Department of the Philippine Government, but also by the Congress, which enacted the laws that would implement or carry out the benefits accruing from the operation of the United States law.” \* \* \* “In the case at bar, our ratification of or concurrence to the agreement for the extension of the Philippine Property Act of 1946 is clearly implied from the acts of the President of the Philippines and of the Secretary of Foreign Affairs, as well as by the enactment of Republic Acts No. 7, 8, and 477.” (*Brownell vs. Sun Life Assurance Co. of Canada*, L-3751, June 22, 1954.)
3. ID.; ID.; ID.; ACTION TAKEN BY ADMINISTRATOR UNDER SECTION 3 OF THE PHILIPPINE PROPERTY ACT OF 1946; NATURE OF.—If an action is taken by the Administrator under section 3 of the Philippine Property Act of 1946, our courts can only pass upon the identity of the property and the question of possession but cannot look into the validity of the vesting order, nor entertain any adverse claim which would require the determination of ownership of the property. (*Silesian American Corporation vs. Markham*, 156 Fed Sup., 793; *In re Miller*, 281 Fed., 764, 773-774; *Miller vs. Kaliwerke Aschersleben Aktien-Gesellschaft*, 283 Fed., 746, 752; *Kahn vs. Garvan*, 263 Fed., 909, 916; *Garvan vs. Certain Shares of International A. Corp.* 276 Fed., 206, 207; *In re Sutherland*, 21 Fed. 2d 667, 669.) Of course the vesting may be erroneous, or it may cover property which does not belong to an alien enemy. If this case arises, then the remedy of the interested party is to give notice of his claim to the Alien Property Custodian, and if no action is taken thereon, to bring an action in the proper court under section 9 (a) of the Trading with the Enemy Act, where the validity of the vesting order can be tested and the question of title adjudicated.
4. ID.; ID.; ID.; PARTITION OF PROPERTIES DOES NOT COME UNDER SECTION 3 OF THE PHILIPPINE PROPERTY ACT OF 1946 BUT UNDER RULE 71 OF THE RULES OF COURT.—Where the averments of the complaint show that the real purpose of the action is not the recovery of possession but the partition of the properties, the action is not, and could not be, one under section 3 of the Philippine Property Act of 1946, but one contemplated in Rule 71 of the Rules of Court.

APPEAL from a judgment of the Court of First Instance of Baguio. *Concepcion, J.*

The facts are stated in the opinion of the court.

*Dallas S. Townsend, Stanley Gilbert, Juan T. Santos and Lino M. Patajo* for plaintiff and appellant.

*Primitivo A. Bugarin and Esmeraldo U. Galoy* for defendant and appellee.

*Alfredo Catolico and Fernando Barrion* for intervenor and appellant.

BAUTISTA ANGELO, J.:

On October 6, 1947, the Philippine Alien Property Administrator, hereinafter referred to as Administrator, issued vesting order No. P-394, which was amended on February 2, and July 14, 1949, vesting in himself, among others, one-half undivided interest in the following properties: (a) five parcels of land situated in the city of Baguio and one parcel situated in San Clemente, Tarlac; (b) personal properties consisting of furniture and household equipments; (c) the sum of ₱5,156.83 representing balance of a saving account with the People's Bank & Trust Company, Baguio branch; (d) the sum of ₱1,867.50 representing rents and income of the lands mentioned above; and (e) the net proceeds of an insurance policy in the amount of \$1,451.81.

The vesting was made upon the claim that the one-half undivided interest was owned by Carlos Teraoka and Marie Dolores Terraoka who were found to be nationals of Japan, an enemy country. After the vesting, the Administrator demanded from their grandfather, Macario Bautista, who was in possession of the aforementioned properties, the delivery to him of the possession of one-half thereof. Macario Bautista refused to comply with the demand claiming to be the sole owner of the aforementioned properties having inherited them as the only surviving heir of their former owners who were already dead, including Carlos Teraoka and Marie Dolores. Because of such refusal, the Administrator filed an action in the Court of First Instance of Mountain Province praying for the partition of the properties and the delivery of one-half thereof to the plaintiff. As one of the parcels involved was sold to one Antonio Baluga, the latter was included in the complaint as party defendant.

The Republic of the Philippines moved to intervene as party plaintiff in view of the provision of the law to the effect that whatever property may be vested in the Administrator would be eventually transferred to the Republic. This motion was granted, and the Republic of the Philippines adopted as its own the complaint filed by the Administrator.

Defendant Macario Bautista set up as special defense that he is the sole owner of the properties in question with the exception of the lot sold to his co-defendant Antonio Baluga; that as such owner he has already spent a considerable amount on said properties in the form of taxes, repairs, fines, penalties, and the like; that Muneo Teraoka was not an enemy national but a naturalized Filipino citizen; that

the children of Muneo Teraoka, including Carlos and Marie Dolores, were Filipino citizens; that the Philippine Alien Property Administrator cannot vest properties not enemy-owned, such as the properties in question and, therefore, he has no personality to bring the present action for partition, for such right pertains only to the heirs of the former owners of said properties who are the only ones who can maintain an action for partition as co-owners thereof pro-indiviso; and that, assuming that Carlos and Marie Dolores are Japanese nationals, the present action for partition is premature, since said children are still minors and as such have the right to elect Philippine citizenship upon reaching the age of majority in accordance with the Philippine constitution.

In reply to the claim that the Administrator had no authority to vest the interest of Carlos and Marie Dolores because they are not Japanese nationals, the Administrator stated that the determination of the character of the properties vested and the nationality of their owners by the Administrator under the law is conclusive and not subject to judicial review; that if the vesting is erroneous, the remedy of the owners is to file a claim under section 32, or a suit under section 9 (a), of the Trading with the Enemy Act; and that the nationality of Carlos and Marie Dolores cannot be passed upon in the present action.

After hearing, the court rendered judgment dismissing the complaint, the court holding in effect that plaintiff failed to prove that Carlos and Marie Dolores are Japanese nationals; that the evidence in fact shows that they are Filipino citizens; and that the vesting of their interest in the property in question was erroneous and, therefore, the vesting order issued by the plaintiff in connection with said interest is illegal and did not vest ownership thereof in the plaintiff. As to Antonio Baluga, the court found that he was an innocent purchaser whose title to the property cannot be reviewed.

From this judgment, the Administrator and the Republic of the Philippines have appealed to the Court of Appeals. After the briefs had been submitted within the reglamentary period, the parties took steps to have the case transferred to this court upon the plea that the issues raised involve purely questions of law, and this move was granted by the court. In the meantime, the Philippine Alien Property Administration was terminated by Executive Order No. 10254 of the President of the United States, effective June 29, 1951, and all its rights, powers, duties, and functions, as well as the properties vested by it, were transferred to the Attorney General of the United States, and so, on action of the Attorney General of the United States, the lower court, in its order of August 13, 1951, ordered



the substitution of this official in lieu of the Philippine Alien Property Administrator.

Inasmuch as this case was transferred to this court upon the plea that the only issues raised by the parties involve purely questions of law, and hence facts as found by the lower court in its decision are deemed admitted, for the purposes of the issues raised, we would quote hereunder the pertinent portion of the decision wherein said facts are outlined:

"In 1924, one Muneo Teraoka, also known as Charles M. Teraoka, then a Japanese subject, married a native Filipino named Antonina Bautista. Out of this wedlock six children were born, namely, Victor, Sixto, Carlos, Marie Dolores, Catalina, and Eduardo. The couple during their married life acquired all the properties described in the complaint. On August 21, 1941, Muneo Teraoka died, survived by his widow Antonina Bautista de Teraoka and his six children by her, above named. An intestate proceedings was instituted in the Court of First Instance of Baguio, as a result of which the real properties described in the complaint were divided between the widow Antonina Bautista on one hand, and the six surviving children on the other, giving to the widow three parcels and to the six children in common another three (see paragraphs 5 and 6 of the original complaint). The personal properties enumerated in the complaint, as well as the cash and the insurance policy of Antonina Bautista were not divided or touched in the said interstate proceedings. Later on in December, 1944, Sixto Teraoka died single at the age of 17 without leaving any issue, while Victor Teraoka was taken by the Japanese soldiers on suspicion of being spy and has never been heard of since then. He was presumably killed by the Japanese soldiers. Victor Teraoka left no issue also and he died single, at the age of about 19 years. On April 24, 1945, during the bombing of the City of Baguio by the American forces of liberation, Antonina Bautista and two of her children, Catalina and Eduardo, were hit by bomb and died, Antonina Bautista died instantly, while Catalina and Eduardo died later on the same day. After liberation and after the surrender of Japan to the American forces, Carlos Teraoka and Marie Dolores Teraoka, the only living members of the ill-fated Teraoka family, these two then being minors, as they are still minors, being 19 and 16 years old, respectively, were taken by the American army to Japan. Once in Japan the two went to stay with their grandfather, father of Muneo Teraoka. They are still in Japan up to date living with their paternal uncle, their grandfather having died. The evidence is clear and greatly preponderant that these two brother and sister, Carlos and Marie Dolores Teraoka, did not want to go to Japan but they were powerless to resist and of too tender age to protest. They first sought their nearest relatives once they were landed in Japan. After liberation also, or to be more exact, on July 18, 1945, the Enemy Property Custodian of the U. S. Army took into his custody the properties described in the complaint on suspicion that these properties were tainted with enemy interest. Then defendant Macario Bautista, father of Antonina Bautista, believing that the entire Teraoka family had already died, and being the nearest surviving kin or relative of the Teraokas, claimed the said properties from the Enemy Property Custodian. The latter, ignorant of the existence in Japan of two of the Teraoka children, granted the petition of Macario Bautista and released the said properties. Macario Bautista,

then, by an affidavit of adjudication, succeeded in securing the cancellation of the certificates of title of those real properties and the issuance of new transfer certificates of title in his own name. Once he had the certificates of title in his name, free of any lien or encumbrance, Macario Bautista sold one lot (Lot No. 113 MM, now covered by Transfer Certificate of Title No. T-331, in the name of Antonio Baluga, in favor of third party defendant Eulalio D. Rosets who, in turn sold it to defendant Antonio Baluga, hence the said Transfer Certificate of Title No. T-331 is now in his name (Exh. 3-Baluga). In October, 1946 the office of the Philippine Alien Property Administration was established in the Philippines. This new office assumed and took over the functions and duties of the defunct Enemy Property Custodian of the United States Army. This new office learned that, contrary to this assertion of Macario Bautista that the entire Teraoka family had died already, two of the Teraoka children, Carlos and Marie Dolores, are very much alive and are living in Japan. Then the Philippine Alien Property Administrator, on the supposition that Carlos Teraoka and Marie Dolores Teraoka are Japanese nationals, vested and took title to the portion of the said properties belonging, by right of succession, to said Carlos and Marie Dolores Teraoka, by virtue of Vesting Order No. P-394, issued on February 2, 1949, which was later supplemented and amended. The above facts have been conclusively established by the evidence. In fact, most of them are directly admitted or not contradicted by any of the parties. Plaintiff filed this case of judicial partition on the theory that the vesting order issued by plaintiff himself made him co-owner of the said property in common with the defendants Macario Bautista and Antonio Baluga."

It is a well-settled rule that the Congress of the United States, in time of war, may authorize and provide for the seizure and sequestration, through executive channels, of properties believed to be enemy-owned, if adequate provision be made for a return in case of mistake. (*Stoehr vs. Wallace*, 225 U. S. 239, 65 L. Ed., 604, 612; *Central Union Trust Co. v. Garvan*, 254 U. S. 554, 65 L. Ed., 403.) Congress did this with the approval of the Trading with the Enemy Act, which was originally enacted on October 6, 1917, authorizing the President of the United States, or the officer or agency that may be designated by him as his representative, to determine the enemy ownership of the properties to be seized. The agency so designated was the Alien Property Custodian. Section 7 (c) of said act, as amended, referring more specifically to the scope of the authority granted to the President, provides as follows: "If the President shall so require *any money or other property* \* \* \* owning or belonging to, or held for, by or on account of, or on behalf of, or for the benefit of, an enemy \* \* \* which the President after investigation shall determine is so owning or so belonging or is so held, *shall be conveyed, transferred assigned, delivered, or paid to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian.*" (Italics supplied.)

On July 3, 1946, the Congress of the United States approved the Philippine Property Act of 1946 providing in section 3 thereof that the Trading with the Enemy Act, as amended, shall continue in force in the Philippines after July 4, 1946, and adding that "all powers and authority conferred upon the President of the United States or the Alien Property Custodian by the terms of said Trading with the Enemy Act, as amended, with respect to the Philippines shall continue thereafter to be exercised by the President of the United States or such other officer or agency as he may designate." Inasmuch as the Philippine Property Act of 1946 was approved only one day before the granting of Philippine independence, the immediate designation of the Alien Property Custodian of the United States, who was already the designee of the President, to continue acting thereafter, was considered most expedient to avoid disrupting the continuity of the vesting program (Executive Order No. 9747). This was done without prejudice however of establishing an independent agency which may take charge of the administration and control of enemy properties in the Philippines. So on October 14, 1946, the Philippine Alien Property Administration was formally established having as head an Administrator to be appointed by the President of the United States, and to this Administrator were transferred the duties and functions of the Custodian with respect to enemy properties located in the Philippines (Executive Orders Nos. 9789 and 9818). During the pendency of the present action, the Philippine Alien Property Administration was in turn terminated effective June 29, 1951 by Executive Order No. 10254 of the President of the United States, and the functions and duties of the Philippine Alien Property Administrator were transferred to the Attorney General of the United States.

It was in the exercise of the powers vested in him by the Trading with the Enemy Act, the Philippine Property Act of 1946, and Executive Order No. 9818 that the Philippine Alien Property Administrator vested in himself the properties in question to be held, administered, or otherwise dealt with in the interest and for the benefit of the United States. Vesting Order No. P-394, which was issued in vesting said properties, recites that, after proper investigation, the Administrator had found that Carlos and Marie Dolores Teraoka were nationals of Japan and that the properties were owned by said nationals.

It is now contended by the Philippine Alien Property Administrator that, as the immediate effect of the vesting order, from the time the properties were vested, title to them passed to the United States as "completely as if by conveyance, transfer or assignment." (Commercial Trust

Company *vs.* Miller, 262, U. S. 51, 57, 67 L. Ed., 858, 861.) Being the owner, the contends, the Administrator may obtain possession of the properties vested, or "may either seize said properties or proceed judicially to compel compliance with his demand for possession." But, in the present case,—he avers—although the Administrator could have seized the properties vested by him, under section 7 (c) of the Trading with the Enemy Act, he preferred to file suit because "it was more orderly and decent to obtain possession by the aid of the court than to seize them by violence and the strong hand." Hence, the Administrator preferred to institute the present action under section 3 of the Philippine Property Act of 1946 the pertinent portion of which reads:

"\* \* \* Provided further, that the courts of first instance of the Republic of the Philippines are hereby given jurisdiction to make and enter all such rules as to notice or otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce any orders, rules, and regulations issued by the President of the United States, the Alien Property Custodian, or such officer or agency designated by the President of the United States pursuant to the Trading with the Enemy Act, as amended, with such right of appeal therefrom as may be provided by law."

But, can the Philippine Alien Property Administrator now invoke the Philippine Property Act of 1946 to enforce his vesting order or to compel compliance with his demand for possession of the properties vested, in spite of the proclamation of our independence on July 4, 1946? Does that act have extraterritorial effect in the Philippines after Philippine independence? This is the issue now posed by counsel for the defendants who contends that such an extension of authority cannot be entertained as it would be in violation of our Constitution, especially section 2, article VIII, which gives to the Supreme Court jurisdiction to review, revise, reverse, modify, or affirm on appeal final judgments and decrees of inferior courts in all cases involving the constitutionality or validity of any treaty, law, ordinance, executive order, or regulation. Counsel contends that under this all-embracing judicial power, that act cannot be given such effect in this jurisdiction that would deprive the Supreme Court of its power to look into the validity of the vesting order issued by the plaintiff.

Fortunately, the issue posed by counsel is not new, as the same has already been passed upon by this court in a similar case. Thus, in the case of *Herbert Brownell, Jr. vs. Sun Life Assurance Company of Canada*, G. R. No. L-3751, June 22, 1954, this court held: "It is evident, therefore, that the consent of the Philippine Government to the application of the Philippine Property Act of 1946

to the Philippines after independence was given, not only by the Executive Department of the Philippine Government, but also by the Congress, which enacted the laws that would implement or carry out the benefits accruing from the operation of the United States law." And in another portion of the decision, we also said: "In the case at bar, our ratification of or concurrence to the agreement for the extension of the Philippine Property Act of 1946 is clearly implied from the acts of the President of the Philippines and of the Secretary of Foreign Affairs, as well as by the enactment of Republic Acts Nos. 7, 8, and 477."

It is therefore clear that the Philippine Alien Property Administrator can now invoke section 3 of the Philippine Property Act of 1946 in order to secure the issuance of any peremptory order from any court of first instance in this jurisdiction to enforce a vesting order to enable said Administrator to obtain possession of the properties vested. But, again, the issue that arises is: Is the action taken by the Administrator, by its nature, substance, and prayer, one that comes under said section 3 of the Philippine Property Act of 1946? If it is, then our courts can only pass upon the identity of the property and the question of possession but cannot look into the validity of the vesting order, nor entertain any adverse claim which would require the determination of ownership of the property. (*Silesian American Corporation v. Markham*, 156 Fed. Sup., 793; *In re Miller*, 281 Fed., 764, 773-774; *Miller vs. Kaliwerke Aschersleben Aktien-Gesellschaft*, 283 Fed., 746, 752; *Khan vs. Garvan*, 263 Fed., 909, 916; *Garvan vs. Certain Shares of International A. Corp.*, 276 Fed., 206, 207; *In re Sutherland*, 21 Fed. 2d 667, 669.) If otherwise, then the court can look into the ownership of the property and make the corresponding adjudication. Of course, the vesting may be erroneous, or it may cover property which does not belong to an alien enemy. If this case arises, then the remedy of the interested party is to give notice of his claim to the Alien Property Custodian, and if no action is taken thereon, to bring an action in the proper court under section 9 (a) of the Trading with the Enemy Act, where the validity of the vesting order can be tested and the question of title adjudicated. According to the plaintiff, this is the only course now open to the defendants in this case.

After a careful examination of the complaint filed in this case, we are inclined to uphold the contention of counsel for the defendants to the effect that, "The present action is not one, and could not be one, under section 3 of the Philippine Property Act of 1946 viewed from the standpoint of its form, substance and prayer. The present

action is clearly an action for partition of real estate, which incidentally includes personal properties, under Rule 71 of the Rules of Court." This can be gleaned from the nature both of the interest involved and the relief prayed for in the complaint. It should be noted that the complaint prays for partition of the properties and not merely for delivery of their possession. Apparently, this is an action contemplated in Rule 71 wherein the court, before proceeding with the partition, has to pass upon the rights or the ownership of the parties interested in the property (Section 2). In an action for partition the determination of ownership is indispensable to make proper adjudication. In this particular case, this acquires added force considering that the titles of the properties appear issued in the name of defendants, and the plaintiff contends that they belong to enemy aliens. By filing this action of partition in the court *a quo*, the Philippine Alien Property Administrator has submitted to its jurisdiction and put in issue the legality of his vesting order. He cannot therefore now dispute this power. It is true that the complaint does not specifically allege that the Administrator is invoking the authority of the court under section 3 of the Philippine Property Act of 1946 and that the failure to make mention of that fact should not militate against the stand of the Administrator. But while we agree with this contention, the fact however remains that the very averments of the complaint show that the real purpose of the action is not the recovery of possession but the partition of the properties. This makes this case come, as already said, under Rule 71 of our Rules of Court.

We are, therefore, persuaded to conclude, and so hold, that the lower court did not err in passing upon the nationality of Carlos and Marie Dolores Teraoka, or in determining the validity of the vesting order issued by the Philippine Alien Property Administrator, wherefore we affirm the decision appealed from, without pronouncement as to costs.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Concepcion, Reyes, J. B. L., JJ., concur.*

*Judgment affirmed.*

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[No. L-6379. September 29, 1954].

IN THE MATTER OF THE PETITION OF WILFRED UYTENGUSU TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. WILFRED UYTENGUSU, petitioner and appellee, *vs.* REPUBLIC OF THE PHILIPPINES, oppositor and appellant.

CITIZENSHIP; NATURALIZATION; ABSENCE DURING PERIOD INTERVENING BETWEEN FILING OF APPLICATION AND HEARING AN



OBSTACLE TO PETITIONER'S NATURALIZATION.—Where the petitioner left the Philippines immediately after the filing of his petition for naturalization and did not return until several months after the first date set for the hearing thereof, notwithstanding his explicit promise, under oath, that he would reside continuously in the Philippines "from the date of the filing of his petition up to the time of his admission to Philippine citizenship", he has not complied with the requirements of section 7 of Commonwealth Act No. 473, and, consequently, not entitled to a judgment in his favor.

APPEAL from a judgment of the Court of First Instance of Cebu. Debuque, J.

The facts are stated in the opinion of the court.

*Manuel A. Zosa* for petitioner and appellee.

*Solicitor General Juan R. Liwag* and *Solicitor Isidro C. Borromeo* for the oppositor and appellant.

CONCEPCION, J.:

This is an appeal taken by the Solicitor General from a decision of the Court of First Instance of Cebu, granting the application of Wilfred Uytengsu, for naturalization as citizen of the Philippines.

The main facts are not disputed. Petitioner-appellee was born, of Chinese parents, in Dumaguete, Negros Oriental on October 6, 1927. He began his primary education at the Saint Theresa's College in said municipality. Subsequently, he attended the Little Flower of Jesus Academy, then the San Carlos College and, still later the Silliman University—all in the same locality—where he completed the secondary course. Early in 1946, he studied, for one semester, in the Mapua Institute of Technology, in Manila. Soon after, he went to the United States, where, from 1947 to 1950, he was enrolled in the Leland Stanford Junior University, in California, and was graduated, in 1950, with the degree of Bachelor of Science. In April of the same year he returned to the Philippines for a 4 months vacation. Then, to be exact, on July 15, 1950, his present application for naturalization was filed. Forthwith, he returned to the United States and took a postgraduate course, in chemical engineering, in another educational institution, in Fort Wayne, Indiana. He finished this course in July 1951, but did not return to the Philippines until October 13, 1951. Hence, the hearing of the case, originally scheduled to take place on July 12, 1951, had to be postponed on motion of counsel for the petitioner.

The only question for the determination in this appeal is whether or not the application for naturalization may be granted, notwithstanding the fact that petitioner left the Philippines immediately after the filing of his petition and did not return until several months after the first date set for the hearing thereof. The Court of First Instance

of Cebu decided this question in the affirmative and accordingly rendered judgment for the petitioner. The Solicitor General, who maintains the negative, has appealed from said judgment.

Section 7 of Commonwealth Act No. 473 reads as follows:

"Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname, his present and former place of residence; his occupation; the place and date of his birth; whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of each of the children; the approximate date of his arrival in the Philippines, the name of the port of debarkation, and if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five of this Act; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship \* \* \*" (Italics supplied.)

In conformity with this provision, petitioner stated in paragraph 13 of his application:

"\* \* \* I will reside continuously in the Philippines from the date of the filing of my petition up to the time of my admission to Philippine citizenship." (Record on Appeal, page 3.)

Petitioner contends, and the lower court held, that the word "residence", as used in the aforesaid provision of the Naturalization Law, is synonymous with domicile, which, once acquired, is not lost by physical absence, until another domicile is obtained, and that, from 1946 to 1951, he continued to be domiciled in, and hence a resident of, the Philippines, his purpose in staying in the United States, at that time, being, merely, to study therein.

It should be noted that to become a citizen of the Philippines by naturalization, one must reside therein for not less than 10 years, except in some special cases, in which 5 years of residence is sufficient (sections 2 and 3, Commonwealth Act No. 473). Pursuant to the provision above quoted, he must, also, file an application stating therein, among other things, that he "has the qualifications required" by law. Inasmuch as these qualifications include the residence requirement already referred to, it follows that the applicant must prove that he is a resident of the Philippines at the time, not only of the filing of the application, but, also, of its hearing. If the residence thus required is the actual or constructive permanent home, otherwise known as legal residence or domicile, then the applicant must be domiciled in the Philippines on both

dates. Consequently, when section 7 of Commonwealth Act No. 473 imposes upon the applicant the duty to state in his sworn application "that he will reside continuously in the Philippines" in the intervening period, it can not refer merely to the need of an uninterrupted domicile or legal residence, irrespective of actual residence, for said legal residence or domicile is obligatory under the law, even in the absence of the requirement contained in said clause, and, it is well settled that, whenever possible, a legal provision must not be so construed as to be a useless surplusage, and, accordingly, meaningless, in the sense of adding nothing to the law or having no effect whatsoever thereon. These consequences may be avoided only by construing the clause in question as demanding actual residence in the Philippines from the filing of the petition for naturalization to its determination by the court.

Indeed, although the words "residence" and "domicile" are often used interchangeably, each has, in strict legal parlance, a meaning distinct and different from that of the other.

"\* \* \* There is a decided preponderance of authority to the effect that residence and domicile are *not* synonymous in connection with citizenship, jurisdiction, limitations, school privileges, probate and succession.

\* \* \* \* \*

"\* \* \* the greater or less degree of permanency contemplated or intended furnishes a clue to the sometimes shadowy distinction between residence and domicile. To be a resident one must be physically present in that place for a longer or shorter period of time. 'The essential distinction between residence and domicile is this: the first involves the intent to leave when the purpose for which he has taken up his abode ceases; the other has no such intent, the abiding is *anim manendi*. One may seek a place for purposes of pleasure, of business, or of health. If his intent be to remain it becomes his domicile; if his intent is to leave as soon as his purpose is accomplished, it is his residence. *Perhaps the most satisfactory definition is that one is a resident of a place from which his departure is indefinite as to time, definite as to purpose*; and for this purpose he has made the place his *temporary home*.

"For many legal purposes there is a clear distinction between 'residence' and 'domicile.' A person may hold an office or may have business or employment or other affair which requires him to reside at a particular place. His intention is to remain there while the office or business or reemployment or other concern continues; but he has no purpose to remain beyond the time the interest exists which determines his place of abode. Domicile is characterized by the *animus manendi*. \* \* \*.

"Residence and domicile are not to be held synonymous. Residence is an act. Domicile is an act coupled with an intent. *A man may have a residence in one state or country and his domicile in another*, and he may be a nonresident of the state of his domicile in the sense that his place of actual residence is not there. Hence the *great weight* of authorities hold—*rightly* so, as we think—that a debtor, *although his legal domicile is in the state, may reside or remain out of it for so long a time and under such circumstances as to acquire*

so to speak, an actual nonresidence within the meaning of the attachment statute."

"Domicile is a much broader term than residence. *A man may have his domicile in one state and actually reside in another, or in a foreign country.* If he has once had a residence in a particular place and removed to another, but with the intention of returning after a certain time, however long that may be, his domicile is at the former residence and *his residence at the place of his temporary habitation.* Residence and habitation are generally regarded as synonymous. A resident and an inhabitant mean the same thing. A person resident is defined to be one 'dwelling and having his abode in any place,' 'an inhabitant,' 'one that resides in a place.' *The question of domicile is not involved in determining whether a person is a resident of a state or county.* The compatibility of domicile in one state with actual residence in another has been asserted and acted upon in the law of attachment by the Courts of New York, New Jersey, Maryland, North Carolina, Mississippi and Wisconsin.

*"Residence indicates permanency of occupation, distinct from lodging or boarding, or temporary occupation.* It does not include as much as domicile, which requires intention combined with residence.' \* \* \* 'one may seek a place for purposes of pleasure, of business, or of health. If his intent be to remain, it becomes his domicile; if his intent be to leave as soon as his purpose is accomplished, it is his residence.'

"The derivation of the two words 'residence' and 'domicile' fairly illustrates the distinction in their meaning. A home (domus) is something more than a temporary place of remaining (residendi) however long such stay may continue.

"While, generally speaking, domicile and residence mean one and the same thing, residence combined with intention to remain, constitutes domicile while and established abode, fixed permanently for a time [!] *for business or other purposes, constitutes a residence,* though there may be an intent, existing all the while, to return to the true domicile.'

"There is a difference between domicile and residence. 'Residence' is used to indicate the place of abode, whether permanent or temporary; 'domicile' denotes a fixed permanent residence to which, when absent, one has the intention of returning. A man may have a residence in one place and a domicile in another.' 'Residence is not domicile, but domicile is residence coupled with intention to remain for an unlimited time. A man can have but one domicile for one and the same purpose at any time, but he may have numerous places of residence. His place of residence generally is his place of domicile, but is not by any means necessarily so, since no length of residence without intention of remaining will constitute domicile." (Kennan on Residence and Domicile, pp. 26, 31-35)

Such distinction was, in effect, applied by this Court in the case of Domingo Dy, *alias* William Dy Chingo *vs.* Republic of the Philippines (L-4548), decided on November 26, 1952. The applicant in that case was born in Naga, Camarines Sur, on May 19, 1915. "At the age of seven or eight, or in the year 1923, he went to China, with his mother to study, and while he used to go back and forth from China to the Philippines during school vacations, he did not come back to live permanently here until the year 1937." He applied for naturalization in 1949. The

question arose whether, having been domiciled in the Philippines for over 30 years, he could be naturalized as a citizen of the Philippines, without a previous declaration of intention, in view of section 6 of Commonwealth Act No. 473 (as amended by Commonwealth Act No. 535), exempting from such requirement "those who have resided in the Philippines continuously for a period of thirty years or more, before filing their application." This Court decided the question in the negative, upon the ground that "actual and substantial residence within the Philippines, not legal residence", or "domicile," alone, is essential to the enjoyment of the benefits of said exemption.

If said actual and substantial residence—not merely legal residence—is necessary to dispense with the filing of a declaration of intention, it is even more necessary during the period intervening from the filing of the petition for naturalization to the date of the hearing thereof. In this connection, it should be remembered that, upon the filing of said petition, the clerk of court is ordained by law to publish it with a notice of the date of the hearing, which, pursuant to section 7 of Act No. 2927, shall not be less than 60 days from the date of the last publication. This period was extended to 2 months, by section 7 of Commonwealth Act No. 473, and then to 6 months, by Republic Act No. 530. The purpose of said period, particularly the extensions thereof—like the requirement of making a declaration of intention at least 1 year prior to the filing of the application—is not difficult to determine. It is nothing but to give the government sufficient time to check the truth of the statements made in said declaration of intention, if any, and in the application for naturalization, especially the allegations therein relative to the possession of the qualifications and none of the disqualifications provided by law. Although data pertinent to said qualifications and disqualifications could generally be obtained from persons familiar with the applicant, it is to be expected that the information thus secured would consist, mainly, of conclusions and opinions of said individuals. Indeed, what else can they be expected to say on whether the applicant has a good moral character; or whether he believes in the principles underlying our Constitution; or whether his conduct has been proper and irreproachable; or whether he is suffering from mental alienation or incurable contagious diseases, or has not mingled socially with the Filipinos, or has not evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos? Obviously, the Government would be in a better position to draw its own conclusions on these matters if its officers could personally observe the behaviour of the applicant and confer with him if necessary.

In the case at bar, the Government has not had any chance whatsoever to thus keep a watchful eye on petitioner herein. Immediately after the filing of his application and notwithstanding the explicit promise therein made by him, under oath, to the effect that he would reside continuously in the Philippines "from the date of the filing of his petition up to the time of his admission to Philippine citizenship"—he returned to the United States, where he stayed, continuously, until October 13, 1951. For this reason, when this case was called for hearing, for the first time, on July 12, 1951, his counsel had to move for continuance. The adverse effect of such absence upon the opportunity needed by the Government to observe petitioner herein was enhanced by the fact that, having been born in the Philippines, where he finished his primary and secondary education, petitioner did not have to file, and did not file, a declaration of intention prior to the filing of his petition for naturalization. Thus, the Government had no previous notice of his intention to apply for naturalization until the filing of his petition and could not make the requisite investigation prior thereto.

Moreover, considering that petitioner had stayed in the United States, practically without interruption, from early in 1947 to late in 1951, or for almost 5 years, over three years and a half of which preceded the filing of the application, it may be said that he resided—as distinguished from domiciled—in the United States at that time and for over a year subsequently thereto. In fact, under our laws, residence for 6 months suffices to entitle a person to exercise the right of suffrage in a given municipality (section 98, Republic Act No. 180); residence for 1 year, to run for a seat in the House of Representatives (sec. 7, art. VI, of the Constitution); and residence for 2 years, to run for the Senate (sec. 4, art. VI, of the Constitution). In some states of the United States, a residence of several weeks or months is enough to establish a domicile for purposes of divorce. Although in these cases the word "residence" has been construed, generally, to mean "domicile"—that is to say, actual residence, coupled with the intention to stay permanently, at least at the time of the acquisition of said domicile—it would seem apparent from by the foregoing that the length of petitioner's habitation in the United States amply justifies the conclusion that he was residing abroad when his application for naturalization was filed and for 15 months thereafter, and that this is precisely the situation sought to be forestalled by the law in enjoying the applicant to "reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship," unless this legal mandate—which did not exist under Act No. 2927, and was advisably inserted, therefore, by



section 7 of Commonwealth Act No. 473—were to be regarded as pure verbiage, devoid, not only, of any force or effect, but also, of any intent or purpose, as it would, to our mind, turn out to be, were we to adopt petitioner's pretense.

In short, we are of the opinion that petitioner herein has not complied with the requirements of section 7 of Commonwealth Act No. 473, and with the aforementioned promise made by him in his application, and, accordingly, is not entitled, in the present proceedings, to a judgment in his favor. Wherefore, the decision appealed from is hereby reversed, and the case dismissed, with costs against the petitioner, but without prejudice to the filing of another application, if he so desires, in conformity with law.

*Pablo, Bengzon, Padilla, Jugo, A. Reyes, Bautista Angelo, and J. B. L. Reyes, JJ., concur.*

*Parás, C. J., and Montemayor, J., reserve their vote.*

*Judgment reversed without prejudice to the filing of another application in conformity with law.*

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[No. L-6606. September 29, 1954]

JOSE M. LEZAMA, petitioner, *vs.* EDMUNDO PICCIO, ET AL.,  
respondents

PLEADING AND PRACTICE; JURISDICTION OVER PERSON OF DEFENDANT, HOW ACQUIRED; DELAY IN THE SERVICE OF SUMMONS ENTITLES DEFENDANT TO LIFT ORDER OF DEFAULT.—Although this court has held that the filing by the defendant of a motion praying for the dissolution of an attachment without impugning the jurisdiction of the trial court and the subsequent giving of a counterbond for its dissolution could be regarded as a voluntary appearance, equivalent to service of summons and therefore he could be properly declared in default (*Flores vs. Zurbito*, 37 Phil., 746, 750; *Monteverde vs. Jaranilla*, 60 Phil., 306; and *Marquez Lim Cay vs. Del Rosario*, 55 Phil., 962), this rule may not be invoked in the present case where the defendant, in petitioning the trial judge by means of a telegram to fix the amount of a counterbond to dissolve the writ of attachment, had also asked that the clerk of court send him a copy of the complaint by air mail in order to be apprised of the court action against him and put up his defense, but said copy apparently was never sent him; and the summons was only served on him two months after the order of default had been rendered against him.

ORIGINAL ACTION in the Supreme Court. Certiorari, prohibition and mandamus.

The facts are stated in the opinion of the court.

*Tirso Ezpeleta* for petitioner.

*Gaudioso C. Villagonzalo* for respondents.

MONTEMAYOR, J.:

From the record we gather the following facts. Perfecto Guillen and eleven others were employed by petitioner Jose M. Lezama in his fishing business. Claiming that they had not been paid their wages to May 28, 1952, they filed Civil Case No. R-1916 in the Court of First Instance of Cebu to collect said pay, and for other relief. At that time Lezama would appear to be residing in the City of Iloilo, although his Manager Juan B. Cesar lived in the City of Cebu. Because Cesar could not be found in Cebu at the time that the complaint was filed the corresponding summons together with a copy of the complaint were sent to the Provincial Sheriff of Iloilo for service on Lezama and were received by said Sheriff on May 31, 1952. On petition of plaintiffs Guillen et al., a writ of attachment was issued against the fishing boat M/L CATALINA belonging to Lezama. Manager Cesar then already in Cebu was notified of this writ of attachment and he must have notified his employer Lezama because the latter for the purpose of lifting the writ, from Iloilo on June 5, 1952, sent a telegram to Judge Piccio who was hearing the case asking him to telegraph to him collect if he was agreeable to his filing of a P5,000.00 counterbond and also asking that the clerk of court send to him a copy of the complaint via airmail (Appendix A). Judge Piccio answered by telegram on the same date to the effect that a P5,000.00 counterbond would be approved. On June 13, 1952, Lezama filed the corresponding counterbond in the amount of P5,000.00 which was approved by the judge.

On October 11, 1952, Judge Piccio issued the following order:

"Defendant not having filed his answer to the complaint within the statutory period, as prayed for, this court hereby declares the defendant in default.

"Plaintiffs may, therefore, introduce their evidence at any convenient date.

"So ordered."

It would seem however that the Provincial Sheriff of Iloilo had not in the meantime served the summons and the copy of the complaint on Lezama in Iloilo, despite the fact that he (Sheriff) received said summons as early as May 31, 1952. On November 28, 1952, the Cebu clerk of court wired said sheriff requesting him to inform the court of the date a copy of the complaint in Civil Case No. R-1916 was served on the defendant. No answer was received. On December 8, 1952, Judge Piccio himself telegraphed the Iloilo Provincial Sheriff to answer by telegram collect and inform him if he had summoned defendant in said case. Still, no answer. But two days,

after, that is, on December 10th, said sheriff served the summons on Lezama.

On December 22, 1952, Judge Piccio rendered judgment in favor of Guillen and his eleven co-plaintiffs in civil case No. R-1916 and against defendant Lezama. On December 23, 1952, Lezama filed a motion for reconsideration asking that the order of default be reconsidered, and that he be allowed to answer the complaint, at the same time enclosing a copy of his answer, alleging that it was only on December 10, 1952, that he received the summons and a copy of the complaint. According to respondents, Guillen et al., this motion was denied by the court on January 3, 1953; and the answer attached to the motion was dismissed on the same date. Then, in an undated petition for relief but bearing the month of January and the year 1953, defendant Lezama claiming that he had a "good and strong evidence to counteract plaintiffs, claim, if the former is given a chance to be heard," asked that the judgment rendered against him be set aside and that a new trial be ordered, at the same time contending that his filing of a counterbond to dissolve the writ of attachment did not constitute a voluntary appearance nor did it confer upon the court jurisdiction over his person because he was not regularly served with summons.

According to Lezama this petition for relief was never acted upon by the court, and according to respondents, copy of said petition for relief was never served on them or upon their attorney. Lezama has now come to this tribunal with a petition for certiorari, prohibition and mandamus, asking that the decision of Judge Piccio as well as the proceedings had in his court be declared null and void, and that the case be remanded to that court for trial on the merits.

One question involved in the present case is whether the action taken by Lezama in asking the trial court by means of a telegram to fix the amount of a counterbond to dissolve the writ of attachment and his subsequent filing of the counterbond fixed by the court constituted a voluntary appearance which according to rule 7, section 23 of the Rules of Court is equivalent to service of summons. If it is, then the fifteen (15) day period provided by rule 9, section 1, of the Rules of Court within which a defendant shall file his answer should be computed not from December 10, 1952, when Lezama was actually and formally served with summons by the Iloilo Sheriff but from June 5, 1952, when Lezama sent the telegram to Judge Piccio or at the latest from June 13, 1952, when he filed his counterbond. And if this be the case, then Lezama was properly and correctly declared in default for his failure to file an answer on time.

In the case of *Flores vs. Zurbito*, 37 Phil., 746, 750, this court said the following:

“\* \* \*. While the formal method of entering an appearance in a cause pending in the courts is to deliver to the clerk a written direction ordering him to enter the appearance of the person who subscribes it, an appearance may be made by simply filing a formal motion, or plea or answer. This formal method of appearance is not necessary. He may appear without such formal appearance and thus submit himself to the jurisdiction of the court. He may appear by presenting a motion, for example, and unless by such appearance he specifically objects to the jurisdiction of the court, he thereby gives his assent to the jurisdiction of the court over his person.”

In the case of *Monteverde vs. Jaranilla*, 60 Phil., 306, this court said that a special appearance in which the jurisdiction of the court over the person of the defendant is not expressly impugned and in which the *dissolution of an attachment is asked upon the filing of a counterbond*, is equivalent to a general appearance.

And in the case of *Marquez Lim Cay vs. Del Rosario*, 55 Phil., 962, this court also held that “the filing of a motion praying for the dissolution of an attachment without objecting to the jurisdiction of the court over the place where the property is situated, by means of a special appearance;” and “the giving of a bond for the dissolution of said attachment, imply a submission to the jurisdiction of the court \* \* \*.”

On the strength of the authorities above cited we could hold that petitioner Lezama was properly declared in default because he should have filed his answer within fifteen days, not from December 10, 1952, when he was actually served with summons in Iloilo, but from June 5, 1952, or at the latest, from June 13, 1952, when he filed with the Cebu court the corresponding counterbond in the amount fixed by said court at his request and instance, all of which could be regarded as a voluntary appearance, equivalent to service of summons, an appearance in which the jurisdiction of the trial court was not impugned. But there is one aspect of the case, by no means unimportant, which must be considered, namely, the delay in the service of summons on Lezama. The Iloilo Sheriff served the summons on him only on December 10, that is, about two months after the order of default. It will be remembered that in Lezama's telegram to Judge Piccio on June 5, he asked that the Cebu Clerk of Court send him a copy of the complaint by airmail. That shows that Lezama was anxious to see a copy of the complaint, apprise himself of the court action against him and put up a defense. But apparently, said copy of the complaint was never sent to him. Besides, according to him, and judging from a copy of his answer, he had a good defense, provided

of course that he can prove his allegations in it. We believe and hold that under the circumstances, Lezama should be given his day in court.

In view of the foregoing, the petition is granted, the order of default and the decision are hereby set aside, and the trial court is directed to reopen the case, admit Lezama's answer and hear and decide the case anew. No costs.

We cannot overlook the long delay in the service of the summons by the Provincial Sheriff of Iloilo. Said Sheriff received said summons from Cebu on May 31, 1952. On November 28, 1952, the Cebu Clerk of Court wired him asking for information about the date the summons was served on the defendant in said civil case No. R-1916. The Sheriff apparently did not deign to answer the telegram. On December 8, 1952, Judge Piccio himself telegraphed said Sheriff of Iloilo asking if he had already served summons on the defendant. The Sheriff again failed to answer; but apparently spurred by said two telegrams and realizing the necessity of some action, on December 10, 1952, he actually served the summons on the defendant. According to the answer of respondents, said sheriff actually cashed the money order covering his fees as sheriff, as early as June 1952, meaning that he collected his fees long before he rendered services on December 10, 1952 when he served the summons. The attention of the Department of Justice and the Presiding Judge of the court of Iloilo are invited to this incident for purposes of investigation if they deem one necessary, so that a similar case of long, unexplained, and obnoxious delay in the service of summons will not be repeated.

*Parás, C. J., Bengzon, S. Padilla, A. Reyes, Jugo, Bautista Angelo, Concepcion, and J. B. L. Reyes, JJ., concur.*

*Petition granted.*

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[No. L-7199. September 30, 1954]

CONCEPCION NAVAL and FRANCISCO NAVAL, plaintiffs and appellants, *vs.* DOLORES JONSAY, SERAFIN NAVAL, and JOSE NAVAL, defendants and appellees.

PUBLIC LAND LAW; OCCUPATION AND CULTIVATION OF PUBLIC LAND GIVES RISE TO RIGHT TO APPLY FOR A FREE PATENT; APPLICATION SHOULD BE FILED TO ACQUIRE TITLE THERETO.—Occupation and cultivation of a public land gives rise to a right to apply for a free patent. But in order that that right may ripen into a free patent title, it is necessary, among other things, that an application be actually filed. In the case at bar, the occupation and cultivation of the land in question began during the first marriage of the entryman but title thereto was applied for and granted during his second mar-

riage. The land should belong to the second conjugal partnership.

APPEAL from a judgment of the Court of First Instance of Camarines Sur. Prieto, J.

The facts are stated in the opinion of the court.

*Ezekiel S. Grageda* for plaintiffs and appellants.

*Crispo B. Borja* for defendants and appellees.

REYES, A., J.:

This is a dispute over the ownership of a piece of land left by Elias Naval, who died on January 1, 1942. The dispute is between the surviving children of the deceased's first marriage on the one hand and his widow and surviving children of the second marriage on the other.

It appears that Elias Naval married his first wife, Dorotea Malanyaon, in 1888. He had 11 children with her but only two of them—Francisco and Concepcion—survived, the others having died in infancy. Dorotea died in 1908, and in 1912 Elias married his second wife, Dolores Jonsay. With her she had three children: Serafin, Jose, and one who died in childhood.

During the existence of the first marriage. Elias Naval took possession of the land in question and commenced to cultivate it in a small scale; but it was not until 1917, that is, nine years after the death of his first wife, that he applied for a free patent therefor. At that time he was already married to his second wife. On February 10, 1925, the application was approved by the Director of Lands who, on that same day, ordered applicant's entry to be recorded in his name. Then on August 29, 1928 a free patent was issued to applicant, who, upon the patent being registered, received Original Certificate of Title No. 346 from the register of deeds for the province.

As the occupation and cultivation of the land began during the first marriage but title thereto was applied for and granted during the second marriage, the question arose as to whether the land should belong to the first conjugal partnership or to the second. To settle the question the surviving children of the first marriage, claiming that the land should belong to them, instituted the present action in the Court of First Instance of Camarines Sur against the widow and the surviving children of the second marriage, who on their part claim that the land belongs to the second conjugal partnership. Upon hearing the cause the court decided in favor of defendants, whereupon plaintiffs appealed to the Court of Appeals, but that court has indorsed the case here on the ground that the questions raised are purely legal.

Plaintiffs-appellants' position is that the patent granted to Elias Naval is a mere confirmation of a vested right



acquired since 1907 through continuous possession and cultivation of the land in question. The trial judge, after analyzing the applicable sections of the Public Land Law, held that mere possession and cultivation since 1907 does not give the entry man a vested right to the land. He says:

“El Juzgado, sin embargo, del analysis de los terminos en que estan concedidos dichos artículos, es de opinión que Elias Naval, por su posesión y cultivo interrumpidos desde el año 1907, solo tuvo un derecho para obtener título gratuito sobre el terreno en litigio de acuerdo con el artículo 41; y dicho derecho era entonces imperfecto o incoativo, porque dependia de una contingencia posterior, cual es el resultado de la investigacion que mas despues practico el Director de Terrenos tal como se ordena en el art. 43. Aquel derecho solo se quedo establecido y se conviertio en real, perfecto y absoluto cuando, despues de la investigación practicada al efecto, el Director de Terrenos dicto el 10 de Febrero de 1925 la orden de expedición del titulo. En este momento fue cuando Elias Naval se hizo dueño del terreno en cuestion y tuvo un *derecho adquirido* sobre el mismo, que se patentizo y se hizo efectivo mediante la expedición del correspondiente título.”

We are inclined to agree with the view taken by the lower court. Occupation and cultivation of the land in question since 1907 unquestionably gave Elias Naval the right to apply for a free patent therefor under the provisions of the Public Land Law. But in order that that right might ripen into a free patent title, it was necessary, among other things, that an application be actually filed. Without this requisite no such title could be acquired, so that if Elias Naval had never filed his application, he could have acquired no right of ownership which he could transmit to his heirs. As was said in a case, it is an erroneous theory, adopted by some courts, that the entryman acquired an equitable title piecemeal, or on the installment plan, until he earned a perfect or complete title by having complied with all the conditions prerequisite to obtaining a patent. The entryman in fact acquired nothing until the instant he was entitled to everything. If his compliance with the statutory conditions feel short in any essential, he had nothing, but the instant he had fully complied with them, the equitable estate burst into full blossom as his property, and simultaneously therewith he acquired the right to a patent. (Petition of S. R. A. Inc., 18 NW 2d 447, 449.)

While no case directly in point has been found, the following from American Jurisprudence is illuminating:

“The rights and interests of the spouses in land acquired from the United States are governed by the Federal laws until the title thereto is completed by the issuance of a patent and, thereafter, the state laws control the determination of whether the land is separate or community property. Hence, in order that a right to such land initiated during coverture but not consummated until

the dissolution of the marriage shall fall into the community, it is necessary that it should have proceeded beyond a mere occupancy or possessory right and arisen to the dignity of ownership. In respect of lands acquired under the Federal Homestead Act, upon the death of one spouse after the initiation but before the completion of the right to the homestead, the survivor acquires the absolute title thereto as his separate property free from any community interest under the laws of the state, especially where the homestead entry was commuted by the survivor, after the death of the other spouse. *Where the wife is divorced after her husband's entry on the land but before the completion of his right to the homestead, she acquires no interest in the property. Where the entry was made before marriage and the patent was issued afterwards, the land is the separate property of the entryman.* But where the title was initiated and the patent was issued during the existence of the marriage, the land is community property." (11 Am. Jur. 193, citing *McCune vs. Essig*, 199 U. S. 382; underlining supplied.)

In view of the foregoing, we are with the trial court in holding that the land in question belongs to the second conjugal partnership, so that one-half of it should pertain to Elias Naval's second wife, while the other half, which corresponds to the deceased Elias Naval, should be divided equally among his surviving children: Francisco, Concepcion, Serafin, and Jose, all surnamed Naval. And it being understood that the shares of the children shall be subject to the usufruct of the surviving spouse as provided by law, the judgment appealed from is affirmed, without special pronouncement as to costs.

*Parás, C. J., Pablo, Bengzon, Padilla, Jugo, Bautista Angelo, and J. B. L. Reyes, JJ., concur.*

*Montemayor, J., reserves his vote.*

*Judgment affirmed.*

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[No. L-6407. July 29, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*  
PASCUAL CASTRO, defendant and appellant

CRIMINAL PROCEDURE; PRESCRIPTION OF CRIMES MAY BE RAISED EVEN AFTER ARRAIGNMENT.—The plea of prescription should be set up before arraignment, or before the accused pleads to the charge; otherwise, the defense would be deemed waived. But this rule is not of absolute application, especially when it conflicts with a substantive provision of the law, such as that which refers to prescription of crimes. (*People vs. Moran*, 44 Phil., 387). Since, under the Constitution, the Supreme Court has only the power to promulgate rules concerning pleadings, practice and procedure, and the admission to the practice of law, and cannot cover substantive rights, the rule about waiver of the plea of prescription of crimes cannot be interpreted or given such scope or extent that would come into conflict or defeat an express provision of our substantive law. One of such provisions is article 89 of the Revised Penal Code which provides that the pres-

cription of crime has the effect of totally extinguishing the criminal liability. The ruling laid down in the Moran case *supra* still holds good even if it were laid down before the adoption of the present Rules of Court.

APPEAL from a judgment of the Court of First Instance of Pampanga. Barot, J.

The facts are stated in the opinion of the court.

*Alfredo Reyes* for defendant and appellant.

*Solicitor General Juan R. Liwag* and *Solicitor Isidro C. Borromeo* for the plaintiff and appellee.

BAUTISTA ANGELO, J.:

Apolonio Bustos, the complainant, was the head teacher of the barrio school of San Jose, Macabebe, Pampanga, and Pascual Castro, the accused, a teacher in said school. In the morning of January 19, 1952, while the complainant was on his way to the barrio chapel to hear mass he met a group of persons including the accused. The complainant invited the accused to hear mass but instead of accepting his invitation a discussion ensued in the course of which the accused gave the complainant a fist blow on the face causing him injuries which required medical attendance for a period of five days.

On April 14, 1952, a complaint for slight physical injuries was lodged by the complainant against the accused in the Justice of the Peace Court of Macabebe, Pampanga. After trial, the accused was found guilty as charged and sentenced to suffer fifteen days of *arresto menor* and to pay the costs. From this decision, the accused appealed to the Court of First Instance where he pleaded not guilty. Before trial on the merits, but after he had entered his plea, the accused moved to dismiss the charge on the ground that the crime had already prescribed. This plea was ignored, and after the presentation of evidence, the court rendered judgment reiterating the same penalty imposed upon the accused by the inferior court. Hence, this appeal.

The only issue to be determined is whether the lower court erred in not dismissing the information on the ground that the offense charged had already prescribed.

It appears that the incident which gave rise to the injuries now complained of occurred on January 19, 1952 while the corresponding criminal complaint was filed before the justice of the peace court on April 14, 1952, or after the period of two months had elapsed. And considering that a light offense prescribes in two months (article 90, Revised Penal Code), it is now contended that the crime had already prescribed and as such it cannot serve as basis of criminal prosecution.

The Solicitor General does not agree with this contention. He claims that, since the accused failed to move to quash before pleading, he must be deemed to have waived this defense under Rule 113, section 10, of the Rules of Court.

The rule thus invoked in effect provides that if the accused does not move to quash the information before he pleads thereto, "he shall be taken to have waived all objections which are grounds for a motion to quash except when the complaint or information does not charge an offense, or the court is without jurisdiction of the same." And one of the grounds on which a motion to quash may be predicated is that the criminal action or liability has been extinguished. (Section 2, paragraph *f*, Rule 113). On the other hand, the law provides that the criminal liability may be extinguished by prescription of the crime. (Article 89, Revised Penal Code).

The question that now arises is: Does the failure of the accused to move to quash before pleading constitute a waiver to raise the question of prescription at a later stage of the case?

A case in point is *People vs. Moran*, 44 Phil., 387. In that case, the accused was charged with a violation of the election law. He was found guilty and convicted and the judgment was affirmed, with slight modification, by the Supreme Court. Pending reconsideration of the decision, the accused moved to dismiss the case setting up the plea of prescription. After the Attorney General was given an opportunity to answer the motion, and the parties had submitted memoranda in support of their respective contentions, the court ruled that the crime had already prescribed holding that this defense cannot be deemed waived even if the case had been decided by the lower court and was pending appeal in the Supreme Court. The philosophy behind this ruling was aptly stated as follows: "Although the general rule is that the defense of prescription is not available unless expressly set up in the lower court, as in that case it is presumed to have been waived and cannot be taken advantage of the thereafter, *yet this rule is not always of absolute application in criminal cases*, such as that in which prescription of the crime is expressly provided by law, for the State not having then the right to prosecute, or continue prosecuting, *nor to punish, or continue punishing*, the offense, or to continue holding the defendant subject to its action through the imposition of the penalty, the court must so declare." And elaborating on this proposition, the Court went on to state as follows:

"As prescription of the crime is the loss by the State of the right to prosecute and punish the same, it is absolutely indisputable that from the moment the State has lost or waived such right,

the defendant may, at any stage of the proceeding, demand and ask that the same be finally dismissed and he be acquitted from the complaint, and such petition is proper and effective even if the court taking cognizance of the case has already rendered judgment and said judgment is merely in suspense, pending the resolution of a motion for a reconsideration and new trial, and this is the more so since in such a case there is not yet any final and irrevocable judgment."

The ruling above adverted to squarely applies to the present case. Here, the rule provides that the plea of prescription should be set up before arraignment, or before the accused pleads to the charge, as otherwise the defense would be deemed waived; but, as was well said in the Moran case, this rule is not of absolute application, especially when it conflicts with a substantive provision of the law, such as that which refers to prescription of crimes. Since, under the Constitution, the Supreme Court has only the power to promulgate rules concerning pleadings, practice and procedure, and the admission to the practice of law, and cannot cover substantive rights (section 13, article VIII, of the Constitution), the rule we are considering cannot be interpreted or given such scope or extent that would come into conflict or defeat an express provision of our substantive law. One of such provisions is article 89 of the Revised Penal Code which provides that the prescription of crime has the effect of totally extinguishing the criminal liability. And so we hold that the ruling laid down in the Moran case still holds good even if it were laid down before the adoption of the present Rules of Court.

The learned dissenter opines that the Moran case has already lost its validity because at the time it was decided there was no rule prescribing waiver of prescription and, besides, this question was not raised and could not have been raised because the law was enacted only when the case was already pending in the Supreme Court. In other words, the learned dissenter is of the opinion that the Moran case cannot be invoked as authority because the question of waiver was not specially raised therein unlike the present case.

We cannot agree to this appraisal of the Moran case for precisely the ruling laid down therein was predicated upon the theory that the defense of prescription, even if not set up in its proper time, is not deemed waived it being an exception to the general rule. Thus, it was there said that, "Although the general rule is that the defense of prescription is not available unless expressly set up in the lower court, as in that case it is presumed to have been waived and cannot be taken advantage of thereafter, yet this rule is not always of absolute application in criminal cases \* \* \*."

It is true that the doctrine in the Moran case was not adhered to in the case of Santos *vs.* Supt. of the "Phil. Training School for Girls", 55 Phil., 345, but that was because the plea of prescription was raised in a petition for a writ of habeas corpus. It has been held that such plea is not available "on an application for a writ of habeas corpus (16 C. J. 416), for the reason that "All questions which may arise in the orderly course of a criminal prosecution are to be determined by the court to whose jurisdiction the defendant has been subjected by the law, and the fact that a defendant has a good and sufficient defense to a criminal charge on which he is held *will not entitle him to his discharge on habeas corpus.*" (12 R. C. L., 1206.)<sup>1</sup> (Italics supplied). The Santos case did not nullify our ruling in the Moran case.

An attempt was made to maintain the case by showing that as a result of the incident in question a criminal complaint for attempted homicide was filed against the accused prior to the charge of slight physical injuries which was dismissed without prejudice and must have had the effect of interrupting the period of prescription; but this attempt cannot be given serious consideration it appearing that the date when the criminal complaint for attempted homicide was filed, does not appear in the record. The only data we have on hand is that the complaint was dismissed on March 27, 1952. The failure of the Government to furnish us sufficient data prevents us from concluding that the prescription period has not yet elapsed since the charge for attempted homicide may have been filed after March 20, 1952 and dismissed on March 27. Under the facts presently obtaining the only alternative is to dismiss the case as prayed for by the defense.

Wherefore, the judgment appealed from is reversed, and the case is dismissed, with costs *de oficio*.

*Parás, C. J., Pablo, Padilla, Jugo, Labrador, and Concepcion, JJ., concur.*

REYES, A., J.:

I concur in the result.

BENGZON, J., with whom concurs MONTEMAYOR, J., dissenting:

Without saying so, the decision strikes down Rule 113 sections 2(f) and 10 of the Rules of Court providing that if the defendant does not, before pleading, move to quash on the ground that the criminal action or liability has been extinguished "he shall be taken to have waived" such defense. The Court confesses, *sotto voce*, that it

<sup>1</sup> These authorities are quoted by the *ponente* in the Santos case (55 Phil., 345).



exceeded its constitutional powers in promulgating such rule or its pertinent portion, because it takes away a substantial right.

Willingness to admit error is always praiseworthy; but when such acknowledgment is due to a short-sighted view of jurisdictional posts and boundaries, regrets are surely in order.

For the record I must state, it was not my privilege to take part in the preparation and promulgation of the Rules of Court of 1940. Nonetheless it is my duty, as a member of the Court now, to exert efforts exploring the nature and extent of Rule 113, with a view to upholding it if legally possible, preserving intact the Court's regulatory powers under the Constitution. On this subject, to give in easily enhances no judicial virtue.

Following *P. vs. Moran* (1923), the majority brushes aside Rule 113 and declares that prescription may be asserted by the accused for the first time, *even after pleading and even on appeal*; but the fundamental facts must be borne in mind that Moran was tried for violation of the Election Law, at a time when no period of prescription for such offenses existed <sup>(a)</sup>; that during the pendency of his appeal the law was amended, *and for the first time* a prescription period was fixed; and that he immediately invoked it. The Court had to agree that Moran made no waiver, because he could not have waived something (prescription) that did not exist when he was tried in the court below. <sup>(b)</sup>

True, there were dicta regarding non-waivability of the defense of prescription, in view of its nature. But *in the year 1923* Rule 113 section 2(f) and 10 *had not yet been adopted.*<sup>c</sup> Obviously in the absence of positive legal rules, the Court *could then* (1923) *and did expound*, abstract principles of criminal law about waiver of prescription. *Now that the Rules of Court* (1940) *provide otherwise expressly*, the philosophical observations in *People vs. Moran* have lost their validity. If necessary it should be declared that the Rules modified *pro tanto* the theories described in that case. In fact those theories were limited—if not overruled—in *Santos vs. Superintendent*, 55 Phil., 345, wherein Virginia Santos having been finally convicted of violation of ordinance, filed habeas corpus proceedings, alleging the offense had prescribed. Reboking the lower court that upheld prescription, we said

(a) *Santos vs. Superintendent of the Philippine Training School for Girls*, 55 Phil., 345.

(b) *Santos vs. Superintendent of the Philippine Training School for Girls*, 55 Phil., 345.

(c) Section 2(f) is a new provision, and section 10 was taken from the American Law Institute.

prescription *may be, and was waived* through failure to allege it on time:

"In granting the writ, the lower court relied upon the ruling by this court in *People vs. Moran* (44 Phil., 387), which was an ordinary criminal case and not an habeas corpus proceedings and where the prescription of the violation of the Election Law was only alleged after the whole proceedings were over, because only then had the Legislature passed a law to that effect. In that case *there was no waiver of that defense for the simple reason that there was no prescription*. If the plea of prescription will not be admitted by the court in habeas corpus proceedings, it is precisely for the reason *that it is deemed to have been waived*. \* \* \*

That the defense of prescription *must be alleged* during the proceedings in prosecution of the offense alleged to have prescribed, is a doctrine recognized by this court in *United States vs. Serapio* (23 Phil., 584) where the principle is supported by citations of *Aldeguer vs. Hoskyn* (2 Phil., 500), *Domingo vs. Osorio* (7 Phil., 405), *Maxilom vs. Tabotabo* (9 Phil., 390), *Harty vs. Luna* (13 Phil., 31) and *Sunico vs. Ramirez* (14 Phil., 500)." (55 Phil., 345).

We held, expressly in the above case that the defense of *prescription* is waived if not alleged during the proceedings, notwithstanding "the State has lost" the right to punish. By the Rules we made it clear afterwards that it must be alleged *before pleading*; otherwise it is waived. This decision now confesses *we had no power* so to direct. Did we also *exceed our power* in the many cases upholding waiver of prescription? (*U. S. vs. Serapio* etc. supra.)

In a few words this decision reaches the conclusion that prescription being a substantial right, it is beyond this Court's power to regulate and debar.

Such a broad statement, sweeps away repeated practices, specially in civil cases. However I will answer it as follows: substantial rights may be lost and have been lost—through failure to comply with rules of procedure or through the neglect duly to set them up.<sup>4</sup>

Again the privilege against double jeopardy is a constitutional right even more substantial; but according to our Rules it is *waived if not seasonably pleaded*. And we said so in repeated decisions listed in the footnote <sup>(e)</sup>, wherein we declined to philosophize (along the lines of the *Moran*

<sup>4</sup> Examples: Sued on a forged promissory note transcribed in the complaint, the defendant fails to deny specifically under oath. Result, he cannot prove forgery—he loses money.

Sued on a promissory note which he has already paid, defendant fails to allege payment as defense. Result, he pays again.

A counterclaim not set up is barred. (Rule 10, sec. 6).

Discharge in bankruptcy, if not pleaded, is waived. (secs. 9 and 10 Rule 9).

<sup>e</sup> *U. S. vs. Perez*, 1 Phil., 203; *U. S. vs. Cruz*, 36 Phil., 727; *U. S. vs. Ondaro* 39 Phil., 76; *P. vs. Cabero*, 61 Phil., 121; *Trinidad vs. Siochi*, 72 Phil., 241.

dicta), that as the first jeopardy meant "the loss by the State of its right to prosecute and punish" the accused again, "it is absolutely indisputable that from the moment the state has lost or waived such right, the defendant may at any stage of the proceedings demand and ask that the same be finally dismissed" because "the State not having then the right to prosecute" a second time "or to continue holding the defendant subject to its action through the imposition of the penalty, the court must so declare."

In those cases we also refused to consider that a *constitutional* right, more than merely substantive—should not be taken away by operation of court decisions, or the Rules.

It is undeniable that the matter of formulating defenses to define issues, and the proofs allowable, is procedural in nature, a matter of pleading and practice. That is exactly the scope of secs. 2(f) and 10 Rule 113. They warn the defendant in advance: if you do not allege prescription, before pleading, it will not be deemed an issue, and it cannot be proved. If he makes no allegations, he renounces the defense. The Rules do not take it away. For all we know, the accused may have reasons to want acquittal on the merits, not on a plea of prescription.

It might be asserted that prescription *needs no proof*, because the information fixes the date of the crime's commission, and prescription may be counted up to the date of filing of such information, which date the court knows. The assertion *forgets* that prescription begins to run, not necessarily from the crime's commission, but "from the day on which the crime *is discovered* by the offended party, the authorities or their agents". (Article 31 Revised Penal Code).

The learned *ponente* will reply of course, that *in this case* the physical injuries had to be known on the same day they were inflicted, and that prescription began immediately. Correct. But we are writing doctrines for *all cases*. In malversation, forgery, bribery and other offenses the crime is not usually known on the same day it is committed. Evidence of that day is therefore needed, upon proper allegations. Herein the *raison d'être* of the Rule in question.

Yet I will meet the issue even on this particular ground. This crime, the decision states was known on the same day, Jan. 19, 1952; and as the information is dated April 14, 1952; *i. e.* more than two months later, therefore prescription and acquittal. With all due respect, there seems to be a jump to conclusions. The period *might have been* "interrupted" by the filing of a complaint or by the defendant's escape to foreign countries, as expressly provided in Article 90 Revised Penal Code. In

fact the justice of the peace, and the court of first instance, say a criminal complaint for attempted homicide had previously been filed which was subsequently dismissed without prejudice. However, despite such information, the majority decision gives the point no serious consideration "it appearing that the date when the criminal complaint for attempted homicide was filed does not appear in the record", *the Government having failed* "to furnish us sufficient data". To be sure, the Fiscal service will be surprised to infer what is left unsaid: "because *it is the duty* of the prosecution to prove that the crime *has not prescribed, even if the accused* does not raise the point".

If the ponente should insist that the accused here invoked prescription, my answer would be: the allegation was late, and according to Rule 113, prescription was waived.

His reply should then be: but the prosecution *ought to have known* that Rule 113 was a nullity because it was beyond this Courts' power, and there was no waiver.

No rejoinder is necessary . . . Need it be stressed that the prosecution had a right to rely on the Rule promulgated by the highest court of the land? Could it presume to know better?

And this leads to the inequitable result of the majority's position: Having acted according to Rule 113 and disregarded prescription, the State is left "holding the bag" when we strike such Rule down. Fairness, I submit, requires that the prosecution should at least be allowed, to prove the interruption of the period which it asserts.

Or do we advise litigants to stick to the Rules at their own peril?

*Judgment reversed.*

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[No. L-6574. July 31, 1954]

GOOD DAY TRADING CORPORATION, petitioner, *vs.* BOARD OF TAX APPEALS, respondent

1. BOARD OF TAX APPEALS DECLARED ILLEGALLY ESTABLISHED; REPUBLIC ACT 1125 CREATED THE COURT OF TAX APPEALS WITH SAME JURISDICTION AND FUNCTIONS AS BOARD OF TAX APPEALS; ALL CASES DECIDED BY FORMER BOARD AND APPEALED TO THE SUPREME COURT SHALL BE DECIDED ON THE MERITS.—Presumably due to a ruling by this Tribunal (University of Santo Tomas *vs.* Board of Tax Appeals, G. R. No. L-5701, June 23, 1953) that the Board of Tax Appeals was illegally established (because by mere Executive Order) for the reason that the jurisdiction assigned to it deprived the Courts of First Instance of their jurisdiction to entertain and pass upon cases taken to them from actions and decisions of the Collector of Customs and the Collector of Internal Revenue regarding taxes, assessments, refunds, etc., Republic

Act 1125 was subsequently passed. Said Act abolished the Board of Tax Appeals, created what is now known as the Court of Tax Appeals with practically the same jurisdiction and functions of the former Board of Tax Appeals, and although it repealed Executive Order No. 401-A, nevertheless it provided that all cases decided by the former Board of Tax Appeals and appealed to the Supreme Court pursuant to Executive Order No. 401-A shall be decided by the Supreme Court on the merits, to all intents and purposes as if said Executive Order 401-A had been duly enacted by Congress.

2. **TAXES; SPECIFIC TAXES ON IMPORTED ARTICLES; EITHER OWNER OR IMPORTER SHALL PAY.**—If a shipment stored, pursuant to existing law, in a bonded warehouse under the custody of the Bureau of Customs is sold, while in storage to another person, the specific taxes on the shipment may be paid either by the importer or the buyer, as owner under section 125 of the National Internal Revenue Code.
3. **COURT OF TAX APPEALS; JURISDICTION; REVIEW AND APPROVAL OF ORIGINAL ASSESSMENT MADE BY THE COLLECTOR OF INTERNAL REVENUE; ONLY ISSUES SUBMITTED CAN BE REVIEWED BY THE TAX COURT.**—Where no appeal was taken from the decision of the Collector of Internal Revenue, as approved by the Secretary of Finance, authorizing the refund of specific taxes paid by the importer, in view of its full payment by the buyers of the stored shipment, and because the amount involved exceeded P5,000 the approval of the Court of Tax Appeals under section 9 of Executive Order No. 401-A becomes necessary, the latter court should consider only the amount and propriety of the refund and nothing more.
4. **ID.; ID.; WHETHER OF NOT BACKPAY CERTIFICATES CAN BE USED FOR THE PAYMENT OF TAXES IS NOT FOR THE TAX COURT TO DETERMINE.**—Whether or not owners of backpay certificates should be given certificates of indebtedness ostensibly to be used to pay taxes but in reality to be speculated upon and negotiated by some unscrupulous person, is not for the Court of Tax Appeals to determine, but is wholly the legal concern of the Treasurer of the Philippines and the Department to be affected later by the use of said certificate of indebtedness.

ORIGINAL ACTION in the Supreme Court. Certiorari and prohibition with preliminary injunction.

The facts are stated in the opinion of the court.

*Enrico I. de la Cruz* for petitioner.

*Solicitor General Juan R. Liwag* and *Solicitor Jose P. Alejandro* for respondent.

MONTEMAYOR, J.:

The facts in this case are not disputed. The petitioner Good Day Trading Corporation imported 238 cases of Chesterfield cigarettes on February 18, 1952. The corresponding surety bond was filed in its favor to secure the payment of the sum of P52,360, the amount of specific taxes due on the cigarette importation, and pursuant to existing law, the shipment was stored in a bonded warehouse under the custody of the Bureau of Customs. On September 23, 1952, while the cigarettes were still in storage,

petitioner sold them to one Buenaventura Isleta for a total sum of ₱32,000, exclusive of specific taxes, the sale being conditioned on the buyer paying all the specific taxes or filing a surety bond with the Bureau of Internal Revenue to guarantee payment thereof, within 15 days from the sale agreement, besides paying all the storage fees, fire insurance premium and other expenses from the date of sale until the cigarettes have been withdrawn by the buyer.

A few days after the sale agreement Isleta informed petitioner that he bought the cigarettes not for himself but on behalf of his companions who intended to pay the specific taxes with their backpay certificates or certificates of indebtedness. Petitioner then wrote a letter to the Collector of Internal Revenue advising him of the sale, at the same time requesting that should the certificates of indebtedness with which the buyers intend to pay the specific taxes on the cigarettes be approved and accepted, the surety bond previously filed by petitioner be ordered cancelled. This letter was duly received by the Collector of Internal Revenue.

Afterwards, when despite several extensions given to Isleta and his companions they failed to show evidence that they had either paid the specific taxes or filed the corresponding surety bond, petitioner to avoid deterioration of the cigarettes, decided to rescind the sale and on December 8, 1952, on account of the specific taxes, it made an initial payment of ₱8,800 to the Collector of Internal Revenue and thereafter attempted to withdraw from storage 40 cases of cigarettes, covered by the initial payment. The warehouseman, however, refused delivery saying that Isleta and companions claimed ownership of the whole shipment because they already had submitted with the Bureau of Internal Revenue certificates of indebtedness (Back Pay) for payment of all the specific taxes, which according to them have already been approved and accepted by the Bureau. At the same time Isleta came to petitioner's office with a letter requesting the suspension of the withdrawal of the cigarettes by petitioner, with the condition that should he (Isleta and companions) fail to comply with the sale agreement on or before December 15, 1952, then petitioner may withdraw the whole shipment and Isleta and companions would pay ₱10,000 as liquidated damages.

Eventually, the Bureau of Internal Revenue approved or accepted the certificates of indebtedness tendered by the buyers as payment of the specific taxes on the cigarettes, the issuance of the certificates of indebtedness having been approved by the National Treasurer of the Philippines. The Bureau of Internal Revenue also authorized



the Bureau of Customs to release to the buyers the whole shipment; the buyers filed their entries with the Bureau of Customs, and withdrew all the cigarettes and allegedly sold the same.

Thereafter, petitioner asked for the refund of the ₱8,800 paid by it in cash, in view of the full payment of the specific taxes on the cigarettes by the buyers. The Collector of Internal Revenue granted the refund and his action was approved by the Secretary of Finance. No appeal was taken from said decision; but because the amount involved was more than ₱5,000 the case was brought before the Board of Tax Appeals for final resolution under the provisions of Executive Order No. 401-A, section 9, particularly the second paragraph, thereof. Said section 9 reads as follows:

"SEC. 9. In all cases involving an original assessment of ₱5,000 or less, the action of the Collector of Internal Revenue pursuant to his authority to compromise cases and make refunds under section 309 of the National Internal Revenue Code, and that of the Commissioner of Customs pursuant to similar authority under section 1369 of the Revised Administrative Code, shall in no case become effective unless approved by the Secretary of Finance. Copies of the action of the Collector of Internal Revenue or of the Commissioner of Customs, as the case may be, and of the approval thereof by the Secretary of Finance shall be promptly furnished the Board of Tax Appeals, and within sixty days from the receipt of copy thereof, the Board may, for justifiable reasons, review the case *motu proprio*.

"But in cases involving an original assessment of more than ₱5,000, the approval by the Secretary of Finance of the action taken as aforesaid by the Collector of Internal Revenue or of the Commissioner of Customs shall not become effective until and unless the same is approved by the Board of Tax Appeals."

The case was set for hearing before the Tax Board and memoranda were filed after which, the Board issued its resolution dated January 31, 1953. The Board not only reversed the decision of the Collector of Internal Revenue granting the refund of ₱8,800 but it also rejected the payment of the entire amount of specific taxes in certificates of indebtedness, and ordered petitioner to pay the balance of ₱43,560 in cash. In other words, the Good Day Trading Corporation which originally imported the cigarettes whose specific taxes amounted to ₱52,360 was held liable and was ordered to pay the whole of said specific taxes.

Petitioner asked for reconsideration claiming that the payment of ₱8,800 in cash amounted to a double payment because the corresponding amount was later paid with certificates of indebtedness, accepted by the Collector of Internal Revenue and approved by the Secretary of Finance; being double payment petitioner was entitled to a refund; moreover, assuming that petitioner was not entitled to

refund, the Tax Board had neither authority nor jurisdiction to order petitioner to pay the balance of ₱43,560 because it was not involved nor was it an issue in the matter submitted to the Tax Board for review. Acting upon the motion for reconsideration the Tax Board denied the same, saying that said motion was filed out of time; that the resolution had become final, and that even if the resolution were still subject to modification and that the Board were to admit that it had no jurisdiction to order the petitioner to pay the balance of the specific taxes due, still petitioner would gain nothing by it because the Tax Board may yet and could reverse the decision of the Collector of Internal Revenue and enjoin him to collect from petitioner the said amount of the balance, pursuant to the Board's ruling that the petitioner is the importer of the cigarettes and so was bound to pay said taxes. Petitioner is now appealing from the resolution and order of the Board of Tax Appeals.

Incidentally, and to avoid any possible confusion, we might state that, presumably due to a ruling by this Tribunal (*University of Santo Tomas vs. Board of Tax Appeals*, G. R. No. L-5701, June 23, 1953) that the Board of Tax Appeals was illegally established (because by mere Executive Order) for the reason that the jurisdiction assigned to it deprived the Courts of First Instance of their jurisdiction to entertain and pass upon cases taken to them from actions and decisions of the Collector of Customs and the Collector of Internal Revenue regarding taxes, assessments, refunds, etc., Republic Act 1125 was subsequently passed. Said Act abolished the Board of Tax Appeal, created what is now known as the Court of Tax Appeals with practically the same jurisdiction and functions of the former Board of Tax Appeals, and although it repealed Executive Order No. 401-A, nevertheless it provided that all cases decided by the former Board of Tax Appeals and appealed to the Supreme Court pursuant to Executive Order No. 401-A shall be decided by the Supreme Court on the merits, to all intents and purposes as if said Executive Order 401-A had been duly enacted by Congress. We are, therefore, deciding this case pursuant to the provisions of said Executive Order 401-A.

The main ground on which the Tax Board based its resolution is that petitioner Good Day Trading Corporation is the importer of the shipment of cigarettes and therefore is the one called upon to pay the specific taxes, and consequently, should pay the same in cash, and the Tax Board proceeds to cite authorities defining what is meant by an importer, namely, that the importer is the primary consignee to whom the goods are sent and who

himself presents the invoices, makes the entry, receives the bill of lading, and gets the goods, as distinguished from one who may be the ultimate consignee, and that it does not include a person who purchases the goods from the importer after they have been brought within the jurisdiction of the United States. On the other hand, petitioner claims that under section 1248 of the Revised Administrative Code which reads as follows:

"SEC. 1248. *When importation by sea begins and ends.*—Importation by sea begins when the importing vessel enters the jurisdictional waters of the Philippines with intention to unload therein, and is not completed until the duties due upon the merchandise have been paid or secured to be paid at a port of entry and the legal permit for withdrawal shall have been granted, or, in case said merchandise is free of duty, until it has legally left the jurisdiction of the customs."

importation is not completed until the duties due upon the merchandise have been paid and legal permit for withdrawal shall have been granted; so that the person or entity paying the duties due and receiving the legal permit for withdrawal and actually withdrawing the goods becomes the importer.

Under our view of the case, whether or not petitioner is the importer of the cigarettes in question, is of little import because under section 125 of the National Internal Revenue Code which provides—

"SEC. 125. *Payment of specific tax on imported articles.*—Specific taxes on imported articles shall be paid by the owner or importer to the customs officers, conformably with regulations of the Department of Finance and before the release of such articles from the customhouse."

either the owner or importer shall pay the specific taxes on imported articles. So that if the sale of the cigarettes by the importer to the owners of the certificates of indebtedness was valid, then said purchasers become the owners of the shipment and could pay the specific taxes. We, therefore, believe and hold that the Tax Board erred in holding that only petitioner Good Day Trading Corporation was called upon and could pay the specific taxes on the cigarette shipment.

What about the payment of the balance of ₱43,560 ordered by the Tax Board to be paid by petitioner in spite of the payment of the entire specific tax in certificates of indebtedness? We agree with the petitioner that only the question of the refund of ₱8,800 was in issue and was involved in the matter considered and decided by the Tax Board. It will be remembered that there was no appeal from the decision of the Collector of Internal Revenue approving the refund, which decision was approved by the Secretary of Finance. If it was brought

to the Tax Board at all, it was because of the provisions of section 9 of Executive Order No. 401-A already reproduced at the first part of this decision. Under said section, in cases of original assessments involving ₱5,000 or less, in one case and involving more than ₱5,000 in another it is the action of the Collector of Internal Revenue pursuant to his authority to compromise cases and make refunds under section 309 of the National Internal Revenue Code, that is subject to review and approval by the Tax Board. So that the assessment and payment of the specific tax of ₱52,360 in themselves, where there was neither dispute nor appeal, was not subject to review by the Tax Board. What was subject to review and what in issue here was the refund of ₱8,800 approved by the Collector of Internal Revenue and approved by the Secretary of Finance because that was an action taken by the Collector of Internal Revenue pursuant to his authority to compromise cases and make refunds under section 309 of the National Internal Revenue Code. Consequently, the consideration and resolution by the Tax Board should be confined to that amount and to the propriety of the refund, nothing more.

One of the reasons if not the main consideration behind the action of the Tax Board in ordering the payment of the whole of the specific taxes by the petitioner, and in cash, is reflected in a portion of its resolution which we quote:

“\* \* \*. It is apparent that interested parties wanted to negotiate their backpay certificates by circumventing the law and as wisely recommended by the Collector of Internal Revenue in his memorandum, ‘as a measure of sound fiscal policy, the acceptance of applications for issuance of certificates or indebtedness for the payment of specific tax on imported articles, should be disapproved.’ To allow the purchasers the payment of specific tax on imported goods in backpay certificates will open a way to unscrupulous dealers to speculate in the negotiation of backpay certificates.”

The Tax Board in its resolution added that “it is highly improper for the Government to accept certificates of indebtedness in lieu of cash.” We can well understand the point of view of the Tax Board. There is reason to suspect that the 29 alleged purchasers to the cigarettes whose certificates of indebtedness (back pay) were used to pay the specific taxes, were not bona-fide purchasers; that they were not interested in the cigarettes imported but were solely concerned with getting their backpay liquidated by any one who may have bought the same at a discount and later used them to pay the specific taxes by making it appear that 29 persons who had nothing in common but their ownership of backpay cer-

tificates, and who heretofore were never importers, dealers or buyers of foreign cigarettes, all of a sudden were drawn and banded together to invest in a commodity they never dealt in or were interested in, and became purchasers and owners of the entire shipment of cigarettes.

The interest taken and solicitude shown by the Tax Board for the Government and the public, is commendable indeed. However, the present appeal has to be decided solely on the basis of the pertinent provisions. Whether or not owners of backpay certificates should be given certificates of indebtedness ostensibly to be used to pay taxes but in reality to be speculated upon and negotiated by some unscrupulous persons, is wholly the legal concern of the Treasurer of the Philippines and the Department to be affected later by the use of said certificate of indebtedness. The attitude of the Tax Board intended to minimize this anomalous practice may be of great interest to the department or departments of the Government charged with the issuance of certificates of indebtedness based on backpay, and the acceptance of the same in payment of taxes.

In view of the foregoing, the resolution of the Tax Board denying the refund of the ₱8,800 and ordering petitioner to pay the balance of ₱43,560 is reversed. No costs. Let copies of this decision be furnished the Treasurer of the Philippines and the Secretary of Finance.

*Parás, C. J., Pablo, Bengzon, A. Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and J. B. L. Reyes, JJ., concur.*

*Petition granted.*

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[No. L-7364. July 31, 1954]

MARCELA DIONISIO, petitioner, *vs.* ROSARIO JIMENEZ, ERNESTO P. HERNANDO, COMMISSIONER CESARIO DE LEON, THE HONORABLE JUDGE BIENVINIDO A. TAN, and SEVERO ABELLERA, respondents.

PLEADING AND PRACTICE; SUMMONS; WORKMEN'S COMPENSATION; SERVICE OF SUMMONS UPON MANAGER OF COMPANY IS BINDING UPON ITS OWNER.—The claim in this case was originally filed with the Workmen's Compensation Commission against the factory, naming E as manager. In the report submitted by E in answer to the claim, she stated that the owner and licensee of the factory was M, she (E) being merely a manager thereof, while at the hearing of the case before the said Commission she not only reiterated this fact but even added that M is her mother. *Held:* The summons served upon E as manager of the factory was made not only in accordance with the law but is valid and binding upon M upon the theory that service upon the manager is service upon the owner. The word "employer" used in section 39 of Act No. 3428 as amended by Republic Act No. 772, includes any association of persons whether incorporated or

*not, or any other person who is virtually the owner or manager of the business. (See also sec. 9 of Rule 7 and sec. 15 of Rule 3.)*

ORIGINAL ACTION in the Supreme Court. Certiorari with prohibition and injunction.

The facts are stated in the opinion of the court.

*Jose V. Lesaca and Enrico I. de la Cruz* for petitioner.

*Cesareo Perez & Anacleto Ea* for respondents.

*Ernesto P. Hernando, referee*, Workmen's Compensation Commission.

BAUTISTA ANGELO, J.:

This is a petition for certiorari which seeks the annulment of all the proceedings had in Case No. 480 of the Workmen's Compensation Commission as well as those had in Civil Case No. 2354 of the Court of First Instance of Rizal in so far as they may affect petitioner, Marcela Dionisio, on the ground that the latter was not served with summons, nor notified, nor given an opportunity to be heard in said proceedings and, therefore, unless nulified, she will be deprived of her property without due process of law.

This petition stems from a claim for compensation and notice of injury filed by Rosario Jimenez on August 2, 1952 before the Workmen's Compensation Commission against Esperanza Lime Factory seeking compensation for the death of her husband who met an accident while in the employ of the factory as a laborer (Case No. 480). Copy of the claim was served on the manager of respondent—she Esperanza Antonio de Carranglan.

On January 23, 1953, respondent, through her manager, answered the claim which under section 37 of the Workmen's Compensation Act as amended takes the form of a report, known as Employer's Report of Accident. In said report it was stated that the owner-licensee of the factory is Marcela Dionisio. The claim and the report are the main pleadings in a compensation case, which correspond to the complaint and answer in an ordinary civil case.

The claim was set for hearing through a referee at which petitioner and respondent, each represented by counsel, presented their evidence. After the reception of the evidence, the referee rendered judgment on July 30, 1953 ordering respondent to pay to petitioner-claimant the sum of ₱4,000 as compensation, plus burial expenses not exceeding ₱200, and the sum of ₱41 as costs. It was stated in the decision that the amount of compensation may be paid on installment basis provided that, in case of failure to pay one installment, the claimant may ask for the payment of the whole claim without any reduction. This judgment was promulgated on August 3, 1953 and as no petition for review was filed with the Com-



mission within the reglementary period, the same became final and executory.

Availing herself of this decision which had become final for lack of appeal or a petition for review as above stated, petitioner filed an urgent petition with the Court of First Instance of Rizal in order that it may be enforced pursuant to section 51, of Act No. 3428, as amended by Republic Act No. 772, and said petition was docketed in said court as Civil Case No. 2354. This petition was heard *ex parte* and thereafter the court, in a decision rendered on October 27, 1953, reaffirmed the judgment of the Workmen's Compensation Commission. This decision also became final and, forthwith, petitioner filed a motion for the issuance of a writ of execution, which was granted, and the sheriff proceeded to levy upon a parcel of land belonging to Marcela Dionisio who is the owner of the factory which was adjudged as party responsible for the compensation both by the Workmen's Compensation Commission as well as by the Court of First Instance of Rizal. It is for these reasons that Marcela Dionisio now comes before this Court seeking the annulment of all the proceedings as already stated in the early part of the decision.

It is the contention of petitioner that all the proceedings had before the Workmen's Compensation Commission as well as of the Court of First Instance of Rizal which culminated in the rendition of the judgment which the widow seeks now to enforce by virtue of a writ of execution are null and void because she has never been summoned, nor notified, nor given any opportunity to be heard, and that, unless nullified, and the writ of execution is given due course, the effect would be to deprive her of her property without due process of law.

In every case arising under the Workmen's Compensation Act (Act No. 3428, as amended by Republic Act No. 772), the proper respondent is the employer or person for whom the victim has rendered the service. The word "employer" has a definite legal meaning. Thus, under section 39 of said Act as amended, the word "'employer'" includes every person or association of persons, incorporated or not, public or private, and the legal representative of the deceased employer. It includes the owner or lessee of a factory or establishment or place of work or *any other person who is virtually the owner or manager of the business* carried on in the establishment or place of work \* \* \*." (Italics supplied.) In the instant case, it is true that the claim was originally filed by Rosario Jimenez, the widow, against the Esperanza Lime Factory, naming as manager Esperanza Antonio de Carranglan. But it is likewise true that the connection of Marcela Dionisio with said factory appears well

established. Thus, in the report submitted by Esperanza Antonio de Carranglan in answer to the claim, she stated that the owner and licensee of the factory was Marcela Dionisio, she being merely a manager thereof, while at the hearing of the case she not only reiterated this fact but even added that Marcela Dionisio is her mother. It cannot therefore be denied that the summons served upon her as manager of the Esperanza Lime Factory was made not only in accordance with the law but is valid and binding upon Marcela Dionisio upon the theory that service upon the manager is service upon the owner. The fact that the Esperanza Lime Factory is merely a trade name is of no moment, for the word "employer" includes any association of persons whether incorporated or not, or *any other person who is virtually the owner or manager of the business.*

On the other hand, the law regarding service of notice of injury or claim for compensation supports this view. Thus, section 26 of the Workmen's Compensation Act (Act 3420) provides that if the employer is a corporation the notice may be served on "any agent in charge of its business at the place where the injury was received", and supplementing this provision, we have section 9, Rule 7, of the Rules of Court which provides that when persons associated in business are sued under a common name the service may be effected "upon the person in charge of the office or place of business maintained in the common name", and section 15, Rule 3, which allows two or more persons who transact business under a common name to be sued under such common name even if their names are not comprised therein. And commenting on this provision, Chief Justice Moran has the following to say:

"The above provision does not change the rule of substantive law to the effect that when an association has acquired a juridical personality of its own, it may sue or be sued as such. It is when such association has no separate juridical personality, or the plaintiff has no means of acquiring knowledge thereof, that the above provision applies, for, in such a case, plaintiff must seek relief from the members of the association. But often times it is hard, if not impossible, to determine who those members are, particularly when they try to conceal their connection so as to frustrate the action, and the social agreement, on the other hand, is not known. To overcome this difficulty, the above provision authorizes the action against the associates by the common name under which they have been transacting business, and, as will be seen later, the association in its answer is bound to disclose the name of its members, and thus a judgment may be rendered affecting the members individually, as may be seen in Rule 35, section 8." (Comments on the Rules of Court, 1952 ed., Vol. 1, pp. 96-97.)

Marcela Dionisio cannot therefore complain that she was not personally served with the summons or notice of the claim of Rosario Jimenez because of the fact

that she has assumed a business name and held herself out as the owner of the business under that name, nor can she avoid the responsibility that may attach to her business by claiming that the only one notified of the action taken is her manager or associate in the business. Neither can she claim that in the present case she has not been given her day in court, or the action was taken against her without due process of law, because, in contemplation of law, service upon her manager is service upon her. In fact, her manager and daughter, Esperanza Antonio de Carranglan, took upon herself the duty to defend her and protect her interest, as in fact she appeared in the case personally and by counsel and presented evidence in defense of her interest. It is evident that her claim has no legal basis.

Petition is denied, without pronouncement as to costs.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, A. Reyes, Jugo, Labrador, Concepcion, and J. B. L. Reyes, JJ., concur.*

*Petition denied.*

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[No. L-5731. June 22, 1954]<sup>1</sup>

HERBERT BROWNELL, JR., as Attorney General of the United States, petitioner and appellee, *vs.* SUN LIFE ASSURANCE COMPANY OF CANADA, respondent and appellant.

1. INTERNATIONAL LAW; EXTRATERRITORIAL EFFECT OF FOREIGN LAW; NECESSITY OF CONSENT OF COUNTRY IN WHICH IT IS SOUGHT TO BE ENFORCED.—A foreign law may have extraterritorial effect in a country other than the country of origin, provided the former, in which it is sought to be made operative, gives its consent thereto.
2. *Id.*; *Id.*; *Id.*; CONSENT NEED NOT BE EXPRESS.—The consent of a State to the operation of a foreign law within its territory does not need to be express; it is enough that said consent be implied from its conduct or from that of its authorized officers.
3. *Id.*; *Id.*; *Id.*; *Id.*; PHILIPPINE PROPERTY ACT OF 1946; BASIS OF ITS APPLICATION IN THE PHILIPPINES.—The operation of the Philippine Property Act of 1946 in the Philippines is not derived from the unilateral act of the United States Congress, which made it expressly applicable, or from the saving provision contained in the proclamation of independence. It is well-settled in the United States that its laws have no extraterritorial effect. The application of said law in the Philippines is based concurrently on said act (Philippine Property Act of 1946) and on the tacit consent thereto and the conduct of the Philippine Government itself in receiving the benefits of its provisions.

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<sup>1</sup> Entry of final judgment, July 13, 1954.

APPEAL from the Court of First Instance of Manila.  
Montesa, J.

The facts are stated in the opinion of the court.

*Rowland F. Kirks, Stanley Gilbert, Juan T. Santos and Lino M. Patajo* for the petitioner and appellee.

*Perkins, Ponce Enrile & Contreras* for the respondent and appellant.

LABRADOR, J.:

This is a petition instituted in the Court of First Instance of Manila under the provisions of the Philippine Property Act of the United States against the Sun Life Assurance Company of Canada, to compel the respondent to comply with the demand of the petitioner to pay him the sum of ₱310.10, which represents one-half of the proceeds of an endowment policy (No. 757199) which matured on August 20, 1946, and which is payable to one Naogiro Aihara, a Japanese national. Under the policy Aihara and his wife, Filomena Gayapan, were insured jointly for the sum of ₱1,000, and upon its maturity the proceeds thereof were payable to said insured, share and share alike, or ₱310.10 each. The defenses set up in the court of origin are: (1) that the immunities provided in section 5(b) (2) of the Trading With the Enemy Act of the United States are of doubtful application in the Philippines, and have never been adopted by any law of the Philippines as applicable here or obligatory on the local courts; (2) that the defendant is a trustee of the fund and is under a legal obligation to see to it that it is paid to the person or persons entitled thereto, and unless the petitioner executes a suitable discharge and an adequate guaranty to indemnify and keep it free and harmless from any further liability under the policy, it may not be compelled to make the payment demanded. The Court of First Instance of Manila having approved and granted the petition, the respondent has appealed to this Court, contending that the court of origin erred in holding that the Trading With the Enemy Act of the United States is binding upon the inhabitants of this country, notwithstanding the attainment of complete independence on July 4, 1946, and in ordering the payment prayed for.

On July 3, 1946, the Congress of the United States passed Public Law 485—79th Congress, known as the Philippine Property Act of 1946. Section 3 thereof provides that The Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, shall continue in force in the Philippines after July 4, 1946, \* \* \*.” To implement the provisions of the act, the President of the United

States on July 3, 1946, promulgated Executive Order No. 9747, "continuing the functions of the Alien Property Custodian and the Department of the Treasury in the Philippines." Prior to and preparatory to the approval of said Philippine Property Act of 1946, an agreement was entered into between President Manuel Roxas of the Commonwealth and U. S. Commissioner Paul V. McNutt whereby title to enemy agricultural lands and other properties was to be conveyed by the United States to the Philippines in order to help the rehabilitation of the latter, but that in order to avoid complex legal problems in relation to said enemy properties, the Alien Property Custodian of the United States was to continue operations in the Philippines even after the latter's independence, that he may settle all claims that may exist or arise against the above-mentioned enemy properties, in accordance with the Trading With the Enemy Act of the United States. (Report of the Committee on Insular Affairs No. 2296 and Senate Report No. 1578 from the Committee on Territories and Insular Affairs, to accompany S. 2345, accompanying H. R. 6801, 79th Congress, 2nd Session.) This purpose of conveying enemy properties to the Philippines after all claims against them shall have been settled is expressly embodied in the Philippine Property Act of 1946.

SEC. 3. The Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, shall continue in force in the Philippines after July 4, 1946, and all powers and authority conferred upon the President of the United States or the Alien Property Custodian by the terms of the said Trading with the Enemy Act, as amended, with respect to the Philippines, shall continue thereafter to be exercised by the President of the United States, or such officer or agency as he may designate: Provided, That all property vested in or transferred to the President of the United States, the Alien Property Custodian, or any such officer or agency as the President of the United States may designate under the Trading With the Enemy Act, as amended, which was located in the Philippines at the time of such vesting, or the proceeds thereof, and which shall remain after the satisfaction of any claim payable under the Trading with the Enemy Act, as amended, and after the payment of such costs and expenses of administration as may by law be charged against such property or proceeds, shall be transferred by the President of the United States to the Republic of the Philippines: Provided further, That such property, or proceeds thereof, may be transferred by the President of the United States to the Republic of the Philippines upon indemnification acceptable to the President of the United States by the Republic of the Philippines for such claims, costs, and expenses of administration as may by law be charged against such property or proceeds thereof before final adjudication of such claims, costs and expenses of administration: Provided further, that the courts of first instance of the Republic of the Philippines are hereby given jurisdiction to make and enter all such rules as to notice or otherwise, and all such orders and decrees and to issue such process as may be necessary and proper

in the premises to enforce any orders, rules, and regulations issued by the President of the United States, the Alien Property Custodian, or such officer or agency designated by the President of the United States pursuant to the Trading With the Enemy Act, as amended, with such right of appeal therefrom as may be provided by law: And provided further, That any suit authorized under the Trading With the Enemy Act, as amended, with respect to property vested in or transferred to the President of the United States, the Alien Property Custodian, or any officer or agency designated by the President of the United States hereunder, which at the time of such vesting or transfer was located within the Philippines, shall after July 4, 1946, brought, in the appropriate court of first instance of the Republic of the Philippines, against the officer or agency hereunder designated by the President of the United States with right of appeal therefrom as may be provided by law. In any litigation authorized under this section, the officer or administrative head of the agency designated hereunder may appear personally, or through attorneys appointed by him, without regard to the requirements of law other than this section.

And when the proclamation of the independence of the Philippines by President Truman was made, said independence was granted "in accordance with and subject to the reservations provided in the applicable statutes of the United States." The enforcement of the Trading With the Enemy Act of the United States was contemplated to be made applicable after independence, within the meaning of the reservations.

On the part of the Philippines, conformity to the enactment of the Philippine Property Act of 1946 of the United States was announced by President Manuel Roxas in a joint statement signed by him and by Commissioner McNutt. Ambassador Romulo also formally expressed the conformity of the Philippine Government to the approval of said act to the American Senate prior to its approval. And after the grant of independence, the Congress of the Philippines approved Republic Act No. 8, entitled

AN ACT TO AUTHORIZE THE PRESIDENT OF THE PHILIPPINES TO ENTER INTO SUCH CONTRACTS OR UNDERTAKINGS AS MAY BE NECESSARY TO EFFECTUATE THE TRANSFER TO THE REPUBLIC OF THE PHILIPPINES UNDER THE PHILIPPINE PROPERTY ACT OF NINETEEN HUNDRED AND FORTY-SIX OF ANY PROPERTY OR PROPERTY RIGHTS OR THE PROCEEDS THEREOF AUTHORIZED TO BE TRANSFERRED UNDER SAID ACT; PROVIDING FOR THE ADMINISTRATION AND DISPOSITION OF SUCH PROPERTIES ONCE RECEIVED; AND APPROPRIATING THE NECESSARY FUNDS THEREFOR.

The Congress of the Philippines also approved Republic Act No. 7, which established a Foreign Funds Control Office. After the approval of the Philippine Property Act of 1946 of the United States, the Philippine Government also formally expressed, through the Secretary of Foreign



Affairs, conformity thereto. (See letters of Secretary dated August 22, 1946, and June 3, 1947.) The Congress of the Philippines has also approved Republic Act No. 477, which provides for the administration and disposition of properties which have been or may hereafter be transferred to the Republic of the Philippines in accordance with the Philippine Property Act of 1946 of the United States.

It is evident, therefore, that the consent of the Philippine Government to the application of the Philippine Property Act of 1946 to the Philippines after independence was given, not only by the Executive Department of the Philippine Government, but also by the Congress, which enacted the laws that would implement or carry out the benefits accruing from the operation of the United States law. The respondent-appellant, however, contends that the operation of the law after independence could not have actually taken, or may not take place, because both Republic Act No. 8 and Republic Act No. 477 do not contain any specific provision whereby the Philippine Property Act of 1946 or its provisions is made applicable to the Philippines. It is also contended that in the absence of such express provision in any of the laws passed by the Philippine Congress, said Philippine Property Act of 1946 does not form part of our laws and is not binding upon the courts and inhabitants of the country.

There is no question that a foreign law may have extraterritorial effect in a country other than the country of origin, provided the latter, in which it is sought to be made operative, gives its consent thereto. This principle is supported by unquestioned authority.

The jurisdiction of the nation within its territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which would impose such restriction. All exceptions, therefore, to the full and complete power of a nation within its own territories, must be traced up to the consent of the nation itself. They can flow from no other legitimate source. This consent may be either express or implied. (Philippine Political Law by Sinco, pp. 27-28, citing Chief Justice Marshall's statement in the *Exchange*, 7 Cranch 116)

In the course of his dissenting opinion in the case of *S. S. Lotus*, decided by the Permanent Court of International Justice, John Bassett Moore said:

1. It is an admitted principle of international law that a nation possesses and exercises within its own territory an absolute and exclusive jurisdiction, and that any exception to this right must be traced to the consent of the nation, either express or implied (*Schooner Exchange vs. McFadden* [1812], 7 Cranch 116, 136). The benefit of this principle equally inures to all independent and sovereign States, and is attended with a corresponding responsibility for what takes place within the national territory. (Digest of International Law, by Hackworth, Vol. II, pp. 1-2)

The above principle is not denied by respondent-appellant. But its argument on this appeal is that while the acts enacted by the Philippine Congress impliedly accept the benefits of the operation of the United States law (Philippine Property Act of 1946), no provision in the said acts of the Philippine Congress makes said United States law expressly applicable. In answer to this contention, it must be stated that the consent of a State to the operation of a foreign law within its territory does not need to be express; it is enough that said consent be implied from its conduct or from that of its authorized officers.

515. *No rule of International Law exists which prescribe a necessary form of ratification.*—Ratification can, therefore, be given tacitly as well as expressly. Tacit ratification takes place when a State begins the execution of a treaty without expressly ratifying it. It is usual for ratification to take the form of a document duly signed by the Heads of the States concerned and their Secretaries of Foreign Affairs. It is usual to draft as many documents as there are parties to the Convention, and to exchange these documents between the parties. Occasionally the whole of the treaty is recited verbatim in the ratifying documents, but sometimes only the title, preamble, and date of the treaty, and the names of the signatory representatives are cited. As ratification is only the confirmation of an already existing treaty, the essential requirements in a ratifying document is merely that it should refer clearly and unmistakably to the treaty to be ratified. The citation of title, preamble, date, and names of the representatives is, therefore quite sufficient to satisfy that requirement. (Oppenheim, pp. 818-819: italics ours.)

International law does not require that agreements between nations must be concluded in any particular form or style. The law of nations is much more interested in the faithful performance of international obligations than in prescribing procedural requirements. (Treaties and Executive Agreements, by Myres S. McDougal and Asher Lands, Yale Law Journal, Vol. 54, pp. 318-319)

In the case at bar, our ratification of or concurrence to the agreement for the extension of the Philippine Property Act of 1946 is clearly implied from the acts of the President of the Philippines and of the Secretary of Foreign Affairs, as well as by the enactment of Republic Acts Nos. 7, 8, and 477.

We must emphasize the fact that the operation of the Philippine Property Act of 1946 in the Philippines is not derived from the unilateral act of the United States Congress, which made it expressly applicable, or from the saving provision contained in the proclamation of independence. It is well-settled in the United States that its laws have no extraterritorial effect. The application of said law in the Philippines is based concurrently on said act (Philippine Property Act of 1946) and on the tacit consent thereto and the conduct of the Philippine Government itself in receiving the benefits of its provisions.

It is also claimed by the respondent-appellant that the trial court erred in ordering it to pay the petitioner the amount demanded, without the execution by the petitioner of a deed of discharge and indemnity for its protection. The Trading With the Enemy Act of the United States, the application of which was extended to the Philippines by mutual agreement of the two Governments, contains an express provision to the effect that delivery of property or interest therein made to or for the account of the United States in pursuance of the provision of the law, shall be considered as a full acquittance and discharge for purposes of the obligation of the person making the delivery or payment. (Section 5(b) (2), Trading With the Enemy Act.) This express provision of the United States law saves the respondent-appellant from any further liability for the amount ordered to be paid to the petitioner, and fully protects it from any further claim with respect thereto. The request of the respondent-appellant that a security be granted it for the payment to be made under the law is, therefore, unnecessary, because the judgment rendered in this case is sufficient to prove such acquittance and discharge.

The decision appealed from should be as it is hereby affirmed, with costs against the respondent-appellant.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, and Concepcion, JJ., concur.*

*Judgment affirmed.*

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[No. L-5689. May 14, 1954]

JUAN DE G. RODRIGUEZ ETC., ET AL., petitioners, *vs.* AURELIO MONTEMAYOR, ETC., ET AL., respondents

1. LOCAL GOVERNMENTS; POWER OF SELF-GOVERNMENT; CONTROL OF FINANCIAL AFFAIRS BY NATIONAL GOVERNMENT.—While the Secretary of Finance has the power to revise their budgets, local governments should be given a large degree of freedom in determining for themselves the propriety and wisdom of the expenses that they make provided that the expenses contemplated are within their financial capacity.
2. ID.; ID.; ID.; SUPPRESSION OF POSITIONS, NOT FINANCIAL MATTER.—Whether or not funds are available to pay for a newly created position is evidently a financial matter; but the suppression of positions is not a financial matter subject to the approval of the Secretary of Finance.
3. ID.; ID.; SUPERVISORY AUTHORITY OF PRESIDENT LIMITED.—The supervisory authority of the President over local governments is limited by the phrase “as provided by law” and where there is no law in accordance with which said authority is to be exercised, it must be exercised in accord with general principles of law.
4. ID.; ID.; SECRETARY OF FINANCE; POWER OF GENERAL SUPERVISION BY THE PRESIDENT INTERPRETED.—The Secretary of Finance is an official of the central government, not of provincial governments, which are distinct and separate. The power of general supervision granted the President over local gov-

ernments, in the absence of any express provision of law, may not generally be interpreted to mean that he, or his *alter ego* the Secretary of Finance, may direct the form and manner in which local officials shall perform or comply with their duties.

5. ID.; ID.; ID.; WHEN POWER OF GENERAL SUPERVISION CAN NOT BE EXERCISED; SUPPRESSION OF POSITIONS, NOT AN ACT OF MALADMINISTRATION.—Unless the acts of local officials or provincial governments constitute maladministration, or an abuse or violation of a law, the power of general supervision can not be exercised. The act of the provincial board in suppressing the positions of three special counsel not being contrary to law, nor an act of maladministration, nor an act of abuse, the same may not be disapproved by the Secretary of Finance acting as a representative of the President by virtue of the latter's power of general supervision over local governments.
6. ID.; ID.; POWER OF PROVINCIAL BOARD TO CREATE AND ABOLISH POSITIONS.—Where the need for the positions of special counsel is, in the very natural order of things, within the competence or prerogative of the provincial board to determine, it is its consequent prerogative to abolish the positions in the exercise of its discretion.
7. ID.; ID.; ID.; REMEDY OF THE PROVINCIAL FISCAL.—Where the provincial fiscal, for justifiable reasons, believes that there is still need for the positions of special counsel which were abolished by the provincial board, he should have appealed to the board to retain the positions instead of seeking the disapproval of the board's resolution by the Secretary of Finance, on the ground that it involves a financial matter.

ORIGINAL ACTION in the Supreme Court. Certiorari and prohibition with preliminary injunction.

The facts are stated in the opinion of the court.

*Jose P. Laurel, Cipriano P. Primicias, and Delgado, Flores & Macapagal* for petitioners.

*First Assistant Solicitor General Ruperto Kapunan, Jr., Assistant Solicitor General Francisco Carreon, and Solicitor Augusto M. Luciano* for respondent Secretary of Finance.

*Alejandro F. de Guzman, Jr.*, in his own behalf and as special counsel for respondents Antonio F. Buenaventura, Dalmacio Ramos, Jose D. Parayno, and Victoriano Gayagoy.

LABRADOR, J.:

This is an original action of certiorari instituted in this Court by the Provincial Governor and the members of the Provincial Board of Pangasinan to nullify the disapproval by the Secretary of Finance of their Resolution No. 55 dated January 30, 1952, abolishing the positions of three special counsel in the province, to prohibit the provincial treasurer and the district auditor from paying the salaries of the three special counsel from February 1, 1952, and to prevent the latter from continuing to occupy and exercise the functions incident to their positions.

On January 30, 1952, a month after the petitioners assumed their respective offices as a result of the victory

of the Nacionalista Party in the Province of Pangasinan in the general elections of 1951, the provincial board passed Resolution No. 55, the pertinent provisions of which are as follows:

\* \* \* \* \*

WHEREAS, the continuation of the offices of special counsel in this province is not an urgent necessity for the present;

WHEREAS, the discontinuance of the offices of special counsel will not impair the administration of justice to the people of Pangasinan as there are at present three assistant provincial fiscals, one provincial fiscal and one Special Prosecutor making five in all.

\* \* \* \* \*

RESOLVED, to abolish as they are hereby abolished effective on the 1st day of February, 1952, the various positions of Special Counsel in the Province of Pangasinan, without prejudice of recreating them in the future if and when necessity arises and exigency of times demand their recreation in the interest of the promotion of peace and tranquility, and provided that the funds of the province shall warrant their re-creations.

The following day, January 31, 1952, the provincial board ordered the reversion of the amounts appropriated for the salaries of the three positions above mentioned to the general fund of the province, the same to be available for other purposes to be later specified by the provincial board. (Resolution No. 63, Annex B.) On February 6, 1952, by Resolution No. 71, a new position of clerk-stenographer was created in the office of the provincial governor, with compensation at the rate of ₱1,680 per annum, the salary to be paid out of the funds reverted to the general fund due to the abolition of the positions of special counsel (Annex C). That same day, February 6, 1952, the provincial board also appropriated the sum of ₱2,000 to defray the cost of printing circulars in the interest of a campaign to restore peace and order and to increase the production of agricultural crops (Annex D).

Upon being informed of the suppression of the said positions, the provincial fiscal of Pangasinan sent a communication to the Secretary of Justice calling attention thereto and to the fact that the provincial fiscal, the three assistant fiscals, and the special prosecutor in the province would not be able to handle all the cases pending before the Courts of First Instance holding sessions within the province. He asked that steps be taken with the Secretary of Finance to have the resolution in question disapproved (Annex 1, attached to the letter to the Secretary of Finance). Pursuant to the communication of the provincial fiscal, the Secretary of Finance on February 15, 1952, disapproved the said Resolution No. 55. His letter of disapproval is as follows:

Gentlemen:

This refers to your current Resolution No. 55 abolishing the three positions of Special Counsel at ₱3600 per annum each in the Office of the Provincial Fiscal, fund for which having been provided in the current fiscal year annual general fund budget. Under the

provisions of section 1686 of the Administrative Code, said positions are of temporary character and may be abolished upon the termination of the specific cases assigned to their incumbents. In view, however, of the statement contained in the letter of the Provincial Fiscal dated February 2, 1952, to the Honorable, the Secretary of Justice who forwarded it to this Department, to the effect that the services of said officers are still needed to attend to the numerous cases still pending adjudication in the seven courts of that province, the abolition of said positions can not be given favorable consideration.

Respectfully,

(Sgd.) AURELIO MONTINOLA  
*Secretary*

The issue squarely presented before us, therefore, is: Does Resolution No. 55 require the approval of the Secretary of Finance in order to have force and effect? The respondents contend that such approval is necessary, as the resolution in question affects the appropriation of the Province of Pangasinan, which is expressly placed under the Secretary of Finance for approval.

The starting point from which the question may be considered is article VII, section 10, of the Constitution of the Philippines, sub-paragraph (1) of which provides as follows:

(1) The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed.

It might be helpful to recall that under the Jones Law the Governor General had both control and supervision over all local governments. (Section 22, Jones Law.) The evident aim of the members of the Constitutional Convention in introducing the change, therefore, must have been to free local governments from the control exercised by the central government, merely allowing the latter supervision over them. But this supervisory jurisdiction is not unlimited; it is to be exercised "as may be provided by law."

At the time of the adoption of the Constitution, provincial governments had been in existence for over thirty years, and their relations with the central government had already been defined by law. Provincial governments were organized in the Philippines way back in the year 1901 upon the approval of Act No. 82 by the Philippine Commission on January 31, 1901. The policy enjoined by the President of the United States in his Instructions to the Philippine Commission was for the insular government to have "only supervision and control over local governments as may be necessary to secure and enforce faithful and efficient administration by local officers." McKinley, Instructions to Philippine Commission, April 7, 1900.) The aim of the policy was to enable the Filipinos to acquire



experience in the art of self-government, with the end in view of later allowing them to assume complete management and control of the administration of their local affairs. This policy is the one now embodied in the above-quoted provision of the Constitution.

With the above background in mind, we shall now proceed to examine the nature of the relationship between the Secretary of Finance, as head of an executive department, and the provincial governments. The following provisions of law have some bearing with the disputed power of the provincial board.

SEC. 2106. *Powers to be exercised with approval of Department Head.*—Upon approval by the Department Head of the particular resolution by which such action shall be taken, the provincial boards of the respective provinces shall have authority:

(a) To appropriate money for purposes not specified by law, having in view the general welfare of the province and its inhabitants. (Revised Administrative Code, as amended up to June 17, 1950.)

SEC. 2120. *Estimate of revenues and receipts for current year.*—*Annual provincial budget.*—Immediately upon receipt of the statement of receipts and expenditures from the provincial treasurer, the provincial board will make a careful estimate of the revenues and receipts for the current year. Upon the basis of such estimated income the provincial board will, likewise, make detailed appropriations covering the estimated expenditures for the year, but in no case shall such appropriations be in excess of the estimated revenues and receipts. The statement of receipts and expenditures for the preceding year, together with the estimates and appropriations by the provincial board for the current year, shall be known as the annual provincial budget. Changes in the estimates and appropriations may be made by the provincial board from time to time during the year by supplemental budgets: *Provided*, That no changes shall be made to appropriations made for health without first consulting the chief of the sanitary division. (Ibid.)

SEC. 1. The powers and administrative supervision heretofore exercised by the Secretary of the Interior over the assessment of real property, appropriation, and other financial affairs of provincial, municipal and city governments and over the offices of provincial, municipal and city Treasurers and provincial and city assessors are hereby transferred to the Secretary of Finance. (Commonwealth Act No. 78.)

Our attention has also been called to the following provisions of Executive Order No. 167 dated October 8, 1938:

SEC. 2. The Department of Finance is the agency of the National Government for the supervision and control of the financial affairs of the provincial, city, and municipal governments.

SEC. 3. In conformity with the foregoing, the budgets of the provincial governments shall be submitted to the Department of Finance, through the Department of the Interior, such budgets to contain the plantilla of personnel in such details as heretofore prescribed and clear and specific statements both of the estimated income and the proposed expenditures for the corresponding fiscal year. In thus submitting the budget, the provincial board should enclose a written opinion of the provincial treasurer as prescribed in section Two thousand one hundred seven of the Administrative Code, together with a statement of the district engineer containing his comments on the proposed expenditures for his office as well

as for public works, and also similar written statements of the division superintendent of schools, the district health officer, the provincial auditor, the provincial fiscal, and the provincial agricultural supervisor regarding the different kinds of proposed expenditures for the activities respectively under them. The budget with all the accompanying statements shall be sent to the Department of the Interior, which should make its comment on the proposed expenditures. The Secretary of the Interior shall then send the budget with his comment and recommendation together with the corresponding opinion and statements of the chiefs of local offices to the Department of Finance, in taking action on the budget, shall be guided by the comment and recommendation of the Secretary of the Interior.

The same procedure shall be observed in the case of supplemental budgets.

and to Executive Order No. 383 dated December 20, 1950, which transfers the supervision and control of the personnel and finances of the provincial governments from the Secretary of the Interior to the Secretary of Finance.

It is on the strength of the above provisions, asserting that the abolition of the positions of the three special counsel in the province of Pangasinan affects the financial affairs of the province, that respondents rest their claim of the alleged power of the Secretary of Finance to disapprove Resolution No. 55.

We must state frankly at the outset that the use of the word "control" in Executive Order No. 167 finds no support of justification either in the Constitution (which grants the President only powers of *general supervision* over local governments), or in any provision of the law. Any effect or interpretation given to said executive order premised on the use of the word "control" therein would be of doubtful validity. That the word was intended not to be given full force or effect is apparent from the directive contained in Section 9 of the executive order, which provides:

SEC. 9. In revising the budgets of local governments and in passing over the expenditures made by such entities, the Department of the Interior and the Department of Finance shall be guided by the principle that provided that the expenses contemplated are within their financial capacity, the local government should be given a large degree of freedom in determining for themselves the propriety and wisdom of the expenses that they make.

Is the suppression of the position of three special counsel a financial matter falling under the supervisory power of the Secretary of Finance over provincial governments? Whether or not funds are available to pay for a newly created position is evidently a financial matter; but the suppression of positions is not a financial matter. The problem before the provincial board was, Should not the services of the three special counsel be stopped and the funds appropriated for them used for other services? This is not a financial matter. It is so only in the sense that the sum appropriated for the abolished positions re-

verts to the general funds to be thereafter appropriated again as the provincial board may provide. Were we to consider all changes in the *purposes* of appropriations as financial matters, because they may have relation to the annual appropriations, there would be no form of activity involving the expenditure of money that would not fall within the power of the Secretary of Finance to approve or disapprove. Such an interpretation can not be held to be within the intendment of the executive order on the approval of the budget of the provincial board.

Having arrived at the conclusion that the suppression of the positions of three special counsel is not a financial matter, subject to the approval of the Secretary of Finance, we now proceed to examine the issue from another angle, i.e., whether the Secretary of Finance, as an *alter ego* of the President of the Philippines, may not have the authority to disapprove the resolution in question under the general supervisory authority given to the President of the Philippines in sub-paragraph (1), section 10, of the Constitution. The supervisory authority of the President is limited by the phrase "as provided by law" but there is no law in accordance with which said authority is to be exercised. The authority must be exercised, therefore, in accord with general principles (of law).

"To supervise" is to oversee, to have oversight of, to superintend the execution of or the performance of a thing, or the movements or work of a person; to inspect with authority; to inspect and direct the work of others. (*Fluet vs. McCabe*, Mass., 12 N. E. 2d 89, 93.) It is to be noted that there are two senses in which the term "supervision" has been understood. In one, it means superintending alone or the oversight of the performance of a thing, without power to control or to direct. In the other, the inspection is coupled with the right to direct or even to annul. The decision of courts in the United States distinguish between supervision exercised by an official of a department over subordinates of that department, and supervision for the purpose only of preventing and punishing abuses, discriminations, and so forth. Thus, in the case of *Aull vs. City of Lexington*, 18 Mo. 401, 402, where a board of health was given supervision over the health of the city, it was held that said power of supervision should be understood as embracing the power of advising measures necessary for the preservation of health. In *Vantongerren vs. Heffernan*, 38 N. W. 52, 55-56, where a secretary of the interior is given general supervision over all public business relating to public lands, it was held that the said secretary, acting through a commissioner, has the power to review all acts of local officers or to direct and correct any errors committed by them. It was said that any less power than this would make the supervision an idle act, a mere overlooking with-

out any power of correction or suggestion. In the case of *State vs. Fremont, E & M.V.R. Co.*, 35 N. W. 118, 124, a railroad board which is granted the power of inspecting and superintending railways was understood to have the power to prevent unjust discriminations against persons and places and to prevent and punish abuses, etc.

The Secretary of Finance is an official of the central government, not of provincial governments, which are distinct and separate. If any power of general supervision is given him over local governments, certainly it can not be understood to mean or to include the right to direct action or even to control action, as in cases of school superintendents or supervisors within their respective districts. Such power (of general supervision) may include correction of violations of law, or of gross errors, abuses, offenses, or maladministration. Unless the acts of local officials or provincial governments constitute maladministration, or an abuse or violation of a law, the power of general supervision can not be exercised. In synthesis, we hold that the power of general supervision granted the President, in the absence of any express provision of law, may not generally be interpreted to mean that he, or his *alter ego*, the Secretary of Finance, may direct the form and manner in which local officials shall perform or comply with their duties.

The act of the provincial board in suppressing the positions of three special counsel not being contrary to law, or an act of maladministration, nor an act of abuse, the same may not be disapproved by the Secretary of Finance acting as a representative of the President by virtue of the latter's power of general supervision over local governments. For a provincial board to determine that other services are more necessary than the services of three special counsel in the province, or that the funds appropriated for the three special counsel may be more profitably used in other activities or services, is no violation of law, and neither does it constitute an abuse of discretion or abuse of power. If the Legislature had thought it convenient or necessary that the services of three additional counsel are to be utilized in the province to handle the prosecution of many pending cases before the courts holding sessions in the province, it should have inserted said positions in the law.

We do not lose sight of the fact that the disapproval of the resolution by the Secretary of Finance was based on the objection thereto of the provincial fiscal, who had certified that the services of said special counsel were necessary in order to cope with the big number of criminal cases pending before the Courts of First Instance holding sessions in the province. The need of the services of said counsel may have been paramount; the objection thereto of the provincial fiscal, we admit, is of great weight.

However, the question before us is not one of necessity or usefulness, but exclusively one of authority or prerogative. It is the provincial board that created the positions of the special counsel; it is its consequent prerogative to abolish the positions in the exercise of its discretion. We do not deny that political motives may have induced the suppression; but neither can we deny that the same motives may have induced their creation. Be that as it may, as the need for the positions is, in the very natural order of things, within the competence or prerogative of the provincial board to determine, the provincial fiscal should have appealed to the provincial board to retain the positions, instead of seeking the disapproval of the board's resolution by the Secretary of Finance, on the ground that it involves a financial matter. We are not prepared to declare that in accordance with general principles the action of the provincial board is an abuse of the power and discretion lodged in it by existing law, subject to disapproval by higher authority under its power of general supervision.

For the foregoing considerations, the writ prayed for is hereby granted, and the act of the Secretary of Finance in disapproving Resolution No. 55 of the provincial board of Pangasinan is hereby declared to be of no force and effect; the three positions of special counsel in the office of the provincial fiscal of Pangasinan are hereby declared vacant from the date of the promulgation of this decision, and the respondents Jose D. Parayno, Alejandro de Guzman, Jr., and Victoriano Gayagoy are prohibited from performing the functions pertaining, or receiving the emoluments attached, thereto; and the provincial treasurer and provincial auditor are ordered to desist from paying and auditing the salaries of said respondents from the date of the promulgation of this decision.

*Parás, C. J., Pablo, Bengzon, Reyes, Jugo, Bautista Angelo, and Concepcion, JJ., concur.*

*Montemayor, J., disqualified himself.*

*Writ granted.*

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[No. L-6481. May 17, 1954]

JESUS GUIAO, petitioner and appellee, *vs.* ALBINO L. FIGUEROA, in his capacity as Provincial Fiscal of the Province of Pampanga, respondent and appellant.

1. CRIMINAL PROCEDURE; PERSONS THAT SHOULD BE INCLUDED IN THE INFORMATION; DUTY OF FISCALS.—The rules of Court make it a mandatory duty for the fiscals to file charges against whomsoever the evidence may show to be responsible for an offense.
2. ID.; ID.; DISCHARGED OF ONE OF SEVERAL DEFENDANTS, DISCRETIONARY UPON COURT.—When it becomes necessary to exclude from prosecution persons who appear responsible for

a crime in order that they may be used as State witnesses, the exclusion is lodged in the sound discretion of the competent court, not in that of the prosecuting officer.

3. *Id.*; *Id.*; *Id.*; FISCALS CAN BE COMPELLED TO INCLUDE PERSONS RESPONSIBLE FOR OFFENSE IN THE INFORMATION.—Where the fiscal chose to ignore his legal duty to include in the information all persons who appear responsible for a crime, it became proper and necessary for the competent court to require him to comply therewith.
4. *Id.*; ACTIONS; WHO MAY BRING ACTION OF MANDAMUS.—Every person accused of a crime has a positive interest in the inclusion of all his co-conspirators because these are jointly and severally liable with them for the indemnities that may be imposed upon them for the offense they may have committed together.

APPEAL from a judgment of the Court of First Instance of Pampanga. Abaya, J.

The facts are stated in the opinion of the court.

*Macapagal, Punsalan & Yabut* for the petitioner and appellee.

*Solicitor General Juan R. Liwag* and *Assistant Solicitor General Francisco Carreon* for the respondent and appellant.

LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Pampanga in an action of mandamus, ordering the provincial fiscal to include Emiliano Manalo and Porfirio Dizon as accused in Criminal Case No. 1453 of said court.

The record discloses that in the trial of Criminal Case No. 1273, *People of the Philippines vs. Atilano Gopez, et al.*, for the crime of kidnapping with murder (against one Felix Lampa), the provincial fiscal introduced said Porfirio Dizon and Emiliano Manalo as witnesses for the State. Porfirio Dizon testified that in the morning of November 23, 1950, the accused Atilano Gopez, Melchor Esguerra, and Benjamin Tolentino went to his house in Dolores, Bacolor, Pampanga; that the three accused carried firearms; that he was asked by them to act as guard for a certain sugar plantation; that while he was on guard, a certain person passed by and Esguerra whistled at him, and the latter approached and talked with Esguerra; that Esguerra told the person that his (Esguerra's) captain wanted to talk to him; that the person (who was Felix Lampa) was brought by them to the backyard of one Iscong Lacsamana; and that after that Dizon left the three in said place.

Emiliano Manalo testified that in the afternoon of November 23, 1950, while he was going home, he saw Benjamin Tolentino, Melchor Esguerra, and Felix Lampa near the house of Francisco Lacsamana; that he asked



Tolentino why Felix Lampa was with them, and Tolentino answered that Jesus Guiao and Eulogio Serrano wanted to talk with him, that he went home and changed his working clothes, and after a while Eulogio Serrano, Jesus Guiao, Atilano Gopez, and Melchor Esguerra passed by his house, and Atilano Gopez called him, telling him that the captain wanted to see him; that the captain was Eulogio Serrano, who asked him to bring his gun along with him; that he went with them, and in the house of Iscong Lacsamana they saw Benjamin Tolentino and Felix Lampa; that Serrano charged Lampa with trying to convince Guiao to testify on the Maliwalu incident, and upon Guiao ratifying this charge, Serrano ordered Atilano Gopez to tie Felix Lampa, and Atilano Gopez, in turn, asked Manalo to do so; that Serrano, Gopez, Guiao, Tolentino, Esguerra, and Manalo brought Lampa to a place called *alfareza*, reaching it between eight and nine o'clock in the evening; that upon reaching the place, they were ordered to dig a hole, and the three of them did so, including Manalo; that thereafter Felix Lampa was brought to the hole, and Serrano ordered Gopez to shoot him, which he did, notwithstanding the protestation of innocence on the part of Lampa. (See Annexes A and B attached to petition.)

In view of the testimonies given by the said Porfirio Dizon and Emiliano Manalo in said Criminal Case No. 1273, the lower court ordered a reinvestigation of the case and suspended its trial, with a view to including as accused all persons who might be guilty of the crime. After the reinvestigation an amended information was filed, and two new accused were included, namely, Jesus Guiao and Eulogio Serrano. But Porfirio Dizon and Emiliano Manalo were not included. In view of the failure of the provincial fiscal to include these two persons, a motion for contempt was filed against the fiscal, but this motion was dismissed on the ground that if the fiscal committed an error of judgment, or even of abuse of discretion, the recourse against him was not an action for contempt but one for mandamus. Due to this order of the court, the action for mandamus was filed by Jesus Guiao to compel the fiscal to include Porfirio Dizon and Emiliano Manalo as accused in his information in Criminal Case No. 1453.

In his answer to the petition for mandamus, the provincial fiscal admits the substance of the testimonies of Porfirio Dizon and Emiliano Manalo as above indicated. He alleges that after the reinvestigation ordered by the court had been conducted, he included Eulogio Serrano and Jesus Guiao in the amended information, but "did not include Porfirio Dizon and Emiliano Manalo as co-accused in said Criminal Case No. 1453 because they are

indispensable witnesses for the prosecution aside from the fact that they are the least guilty." No trial was held, and the Court of First Instance decided the petition for mandamus on the pleadings.

It will be noted that the transcript of the testimonies of Porfirio Dizon and Emiliano Manalo in Criminal Case No. 1273 is attached to the petition for mandamus as Annexes A and B. On the basis of the pleadings, the lower court held that in accordance with section 1 of Rule 106 of the Rules of Court, it is the duty of the fiscal to include all the persons who are responsible for the crime, and that if any or some of them are the least guilty, the determination of this fact rests in the sound discretion of the trial court and not upon the fiscal, citing the case of *Monroe vs. Sanchez*, G. R. No. L-2286 promulgated June 17, 1948. It, therefore, granted the petition.

The question now before this Court is whether a fiscal may be compelled by mandamus to include in an information persons who appear to be responsible for the crime charged therein, but whom the fiscal believes to be indispensable witnesses for the State. The provision of section 1 of Rule 106 of the Rules of Court expressly states that criminal actions shall be brought "against all persons who appear to be responsible therefor." The original provisions contained in General Orders No. 58 provided that all prosecutions shall be "against the persons charged with the offenses." The change in the law was introduced in Act No. 2709, two of whose provisions were as follows:

SECTION 1. Every prosecution for a crime shall be in the name of the United States against all persons who appear to be responsible therefor, except in the cases determined in section two of this Act.

SEC. 2. When two or more persons are charged with the commission of a certain crime, the competent court, at any time before they have entered upon their defense, may direct any of them to be discharged, that he may be a witness for the Government when in the judgment of the Court:

(a) There is absolute necessity for the testimony of the accused whose discharge is requested;

(b) There is no other direct evidence available for the proper prosecution of the crime committed, except the testimony of the accused;

(c) The testimony of said accused can be substantially corroborated in its material points;

(d) Said accused does not appear to be the most guilty;

(e) Said accused has not at any time been convicted of the crime of perjury or false testimony or of any other crime involving moral turpitude.

The pertinent provision of section 1 of Rule 106 is taken from section 1, while section 9 of Rule 115 from section 2.

A perusal of Act 2709 discloses the legislative intent to require that all persons who appear to be responsible for an offense should be included in the information. The use of the word "shall" and of the phrase "except in the cases determined" shows that section 1 is mandatory, not directory merely. The mandatory nature of the section is demanded by a sound public policy, which would deprive prosecuting officers of the use of their discretion, in order that they may not shield or favor friends, proteges, or favorites. The law makes it a legal duty for them to file the charges against whomsoever the evidence may show to be responsible for an offense. This does not mean, however, that prosecuting officers have no discretion at all; their discretion lies in determining whether the evidence submitted is sufficient to justify a reasonable belief that a person has committed an offense. What the rule demands is that all persons *who appear responsible* shall be charged in the information, which implies that those against whom no sufficient evidence of guilt exists are not required to be included.

The other aim of Act 2709 is a compliment of the mandatory provision: to regulate the manner in which any of the accused may be excluded in order that he may be utilized as a State witness, and to rest the manner of the enforcement of the regulations in the sound discretion of the courts. (*U. S. vs. Abanzado*, 37 Phil., 658.)

In short, Act 2709 has laid down four principles, namely, (1) that all persons who appear responsible for an offense must be included in the information charging that offense; (2) that even if it is necessary to utilize any of the above persons as State witness, he shall nevertheless be included as accused; (3) that fiscals have no discretion in excluding from prosecution persons who appear responsible for a crime, but that if it becomes necessary to do so, the procedure provided in the law must be followed; and (4) that the exclusion of accused from prosecution, in order that they may be used as State witnesses, is lodged in the sound discretion of the competent court, not in that of the prosecuting officer.

In the case at bar, there is no question that Porfirio Dizon and Emiliano Manalo participated either as principals or accomplices in the kidnapping and murder of Felix Lampa, and that the only reason why the fiscal excluded them from the amended information is because he thought it more convenient, or perhaps more expeditious, to do so. When the fiscal chose to ignore his legal duty to include the said Porfirio Dizon and Emiliano Manalo as accused in the criminal case, and to follow the procedure outlined in the rules by which said persons may be discharged in order that they may be utilized

as witnesses for the prosecution, it became proper and necessary for the competent court to require him to comply therewith.

One minor point needs to be considered, and that is the point raised in the brief of the Solicitor General that the petitioner-appellee Jesus Guiao has no right to institute the action of mandamus, because he has no clear right to the performance of the alleged legal duty by the provincial fiscal. We find no merit in this contention. Every person accused of a crime has a positive interest in the inclusion of all his co-conspirators; a right to demand that all of them be accorded equal treatment and be made to suffer the penalties imposed by law. Without deciding the question as to whether or not any private citizen may demand compliance by the fiscal with the provisions of section 1 of Rule 106, requiring him to file the information "against all persons who appear to be responsible for an offense," we hold that the other accused have an interest in the inclusion of their two other companions in the commission of the crime, because these are jointly and severally liable with them for the indemnities that may be imposed upon them for the offense they may have committed together.

The judgment appealed from is hereby affirmed, without costs.

*Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.*

*Judgment affirmed.*

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[No. L-5953. May 26, 1954]

EX-MERALCO EMPLOYEES TRANSPORTATION COMPANY, INC.,  
petitioner and appellant, *vs.* REPUBLIC OF THE PHILIPPINES, respondent and appellee.

DAMAGES; LIABILITY OF MASTER, PRIMARY AND DIRECT; SUBSIDIARY LIABILITY OF EMPLOYER UNDER THE REVISED PENAL CODE.—The allegation that a criminal information should have been filed previously against the driver is, besides not being jurisdictional, untenable for the reason that the liability of a master for damages caused by his employee or agent in a business enterprises is primary and direct and not subsidiary. Subsidiary liability of the employer takes place only when the action is brought under the provisions of the Revised Penal Code.

APPEAL from a decision of the Court of First Instance of Manila. Ibañez, J.

The facts are stated in the opinion of the court.

*Teodoro L. O. Calucin* for the petitioner and appellant.  
*Assistant Solicitor General Guillermo E. Torres* and  
*Solicitor Juan T. Alano* for the respondent and appellee.

JUGO, J.:

On July 26, 1951, the Republic of the Philippines, represented by the Solicitor General, filed in the Municipal Court of the City of Manila (civil case No. 16716 of said court), a complaint against the corporation, known as Ex-Meralco Employees Transportation Company, Inc., for the recovery of damages in the sum of ₱1,332.17, alleging that:

“\* \* \* the plaintiff is the owner of a Ford Service Truck bearing Plate No. T.P.I.-975 assigned for the use of one of its instrumentalities, the Bureau of Telecommunications, Manila;

“That on January 10, 1951, while plaintiff's service truck was at full stop near a safety island in the middle of España Boulevard, it was bumped by a passenger truck bearing Plate No. T.P.U.-5112 belonging to and operated by the defendant corporation and driven by defendant's employee one 'Pakia Adona' who fled immediately after the collision.”

The defendant corporation filed the following answer:

“What actually happened was that while the defendant's bus was heading toward Quiapo along the España Avenue, all of a sudden, the plaintiff's service truck, without making any sign on the part of its driver, unexpectedly, and instantly swerved to the left toward the front of defendant's bus for a U turn at the safety island at the intersection of España and Miguelin Streets, without first taking necessary precaution and violating thru street traffic rules and disregarding the stream of vehicles flowing along the thru España Street or avenue, so sudden and swift and without clear distance that to evade the collision was physically and materially impossible on the part of the defendant's driver, although the latter tried to evade it, in vain, by immediately applying the brakes and at the same time swerving to the left as to swerve it to the right was impossible and fatal to the plaintiff's truck, so that the collision was absolutely due to the fault, recklessness, and omission of thru street traffic rules on the part solely of the plaintiff's driver, and without any fault on the part of the driver of the defendant; and defendant's driver fled due to threat of bodily harm shown by plaintiff's personnel on the spot.”

On the date set for the trial, the defendant's (herein petitioner's) counsel objected to the trial because, as he alleged, there were sufficient grounds for the dismissal of the complaint. On January 16, 1952, he filed a formal motion to dismiss on the ground that “the plaintiff's complaint was without any cause of action as the driver concerned had not as yet been adjudged liable for the damages, if any, complained of.” The motion was denied.

The defendant (petitioner herein) filed in the Court of First Instance of Manila a petition for certiorari and preliminary injunction, praying said court to annul the order of the municipal court denying the dismissal of the case for the reason that the latter acted in excess or abuse of jurisdiction.

The court of first instance denied the petition for certiorari in the following language:

“\* \* \* The facts alleged by the petitioner in its petition, and admitted by the respondents in their answer, cannot be the basis for the issuance of a writ of certiorari against the respondents, as

prayed for by the petitioner, because it is within the power and jurisdiction of the respondent Judge to hear and decide Civil Case No. 16716 of the Municipal Court of the City of Manila, and that the said respondent Judge committed no abuse of discretion or excess of jurisdiction in denying petitioner's motion for the dismissal of said case."

The above order of the Court of First Instance is correct. The remedy of the petitioner should be a regular appeal filed in due time to the court of first instance. The ground that the complaint did not state facts sufficient to constitute a cause of action is not jurisdictional. The allegation that a criminal information should have been filed previously against the driver is, besides not being jurisdictional, untenable for the reason that the liability of a master for damages caused by his employee or agent in a business enterprise is primary and direct and not subsidiary. Subsidiary liability of the employer takes place only when the action is brought under the provisions of the Revised Penal Code.

In view of the foregoing, the decision appealed from the Court of First Instance is affirmed, with costs against the petitioner. It is so ordered.

*Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Bautista Angelo, Labrador, and Concepcion, JJ., concur.*

*Judgment affirmed.*

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[No. L-6018. May 31, 1954]

EMILIANO MORABE, Acting Chief, Wage Administration Service, petitioner and appellant, *vs.* WILLIAM BROWN, doing business under the name and style of CLOVER THEATER, respondent and appellee.

1. MANDAMUS; MANDATORY INJUNCTION IS ALSO MANDAMUS; COURTS OF FIRST INSTANCE MAY GRANT WRIT AFTER ACT HAS BEEN CARRIED OUT.—Where the action seeks the performance of a legal duty, such as the reinstatement of an employee who has been unlawfully dismissed, the action is one of mandamus and not an injunction. The writ known as preliminary mandatory injunction is also a mandamus, though merely provisional in character, and may be granted by the Court of First Instance after the act complained of has been carried out.
2. *Id.*; *Id.*; EMPLOYEE UNLAWFULLY DISMISSED IS ENTITLED TO REINSTATEMENT; COURTS MAY COMPEL EMPLOYER TO ADMIT HIM BACK.—Where an employee was unlawfully deprived of his right or privilege to continue in the service of his employer because his dismissal was unlawful, it is within the competence of courts to compel the employer to admit him back to his service.

APPEAL from a judgment of the Court of First Instance of Manila. Amparo, J.

The facts are stated in the opinion of the court.

*Jimenez B. Buendia* and *W. Ramcap Lagumbay* for respondent and appellee.

*Assistant Solicitor General Francisco Carreon* and *Solicitor Ramon L. Avancena*, for petitioner and appellant.



LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Manila denying a petition of the chief of the Wage Administration Service for the reinstatement of Pablo S. Afuang by the respondent William Brown. The original petition filed in the Court of First Instance alleges that the respondent had dismissed Pablo S. Afuang because in an investigation conducted by the petitioner of charges against the respondent that the latter paid his employees beyond the time fixed in Republic Act No. 602, the said Afuang was one of the complainants; that the respondent discharged the said employee in violation of section 13 of said Act. The petitioner, therefore, prayed that the respondent be ordered to reinstate Pablo S. Afuang, and that a writ of preliminary mandatory injunction issue for his reinstatement. The court issued a writ of preliminary mandatory injunction. Thereafter, the respondent presented a petition asking for the dismissal of the petition on the ground that Pablo S. Afuang had presented a letter asking excuse or apology from the respondent for having taken his case to court. This motion to dismiss was, however, not acted upon, and the case was heard and the parties presented their evidence. On May 2, 1952, the Court of First Instance rendered judgment finding that the dismissal from the service of Pablo S. Afuang is unlawful and violates section 13 of the Minimum Wage Law, because the fact that he testified at the investigation is not a valid ground for his dismissal from the service. The court, however, refused to grant an order for the reinstatement of Said Pablo S. Afuang on the ground that this remedy, which it considers as an injunction, is available only against acts about to be committed or actually being committed, and not against past acts; that injunction is preventive in nature only; and that as the law has already been violated, the remedy now available is for the prosecution of the employer for the violation of the Minimum Wage Law, and not for the reinstatement of Pablo S. Afuang. It, therefore, dismissed the action, as well as the petition for the writ of preliminary mandatory injunction, and that which was theretofore granted was dissolved. Against this judgment an appeal has been prosecuted to this Court.

The only assignment of error is that the lower court erred in not ordering the respondent to reinstate Pablo S. Afuang in the service. It is evident that the court *a quo* erred in considering that a mandatory injunction is preventive in nature, and may not be granted by the Court of First Instance once the act complained of has been carried out. The action of the petitioner is not an action of injunction but one of mandamus because it seeks the performance of a legal duty, the reinstatement of Pablo S.

Afuang. The writ known as preliminary mandatory injunction is also a mandamus, though merely provisional in character. In the case at bar, Pablo S. Afuang was entitled to continue in the service of respondent, because his act is expressly provided to be no ground or reason for an employee's dismissal, section 13 of Republic Act No. 602 states that "it shall be unlawful for any person to discharge or in any other manner to discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, \* \* \*." Pablo S. Afuang was, therefore, unlawfully deprived of his right or privilege to continue in the service of the respondent, because his dismissal was unlawful or illegal. Having been deprived of such right or privilege, it is within the competence of courts to compel the respondent to admit him back to his service.

In the case of Manila Electric Co. *vs.* Del Rosario and Jose, 22 Phil., 433, the lower court ordered the Manila Electric Co. to furnish electric current to Jose, the electric company having cut the current to Jose's house because it suspected him of stealing electricity by the use of a jumper. This Court held that the action was not one of injunction but of mandamus, as it compelled the electric company to furnish Jose with electric service. In the case at bar, the court can also order the respondent to reinstate Pablo S. Afuang. Were we to hold that Afuang may not be reinstated because he has already been dismissed, there would not be any remedy against the injustice done him, or for him to return to the position or employment from which he was unlawfully discharged. This remedy (of ordering reinstatement) has been granted in parallel situations by the Court of Industrial Relations with our approval, when laborers have been illegally separated by their employers without legal or just cause. This remedy has also been granted in similar cases in the United States, from which jurisdiction the Minimum Wage Law or Republic Act No. 602 has been taken. (Walling, etc. *vs.* O'Grady, et al, No. 2140, Nov. 3, 1943, U. S. District Court, Southern District of New York; 3 WH Case 781.)

The judgment appealed from is hereby reversed, and the respondent William Brown is hereby ordered to reinstate Pablo S. Afuang to the position he held prior to his dismissal. Without costs.

*Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, and Concepcion, JJ., concur.*

*Judgment reversed.*

[No. L-6122. May 31, 1954]

AURELIA DE LARA and RUFINO S. DE GUZMAN, plaintiffs and appellants, *vs.* JACINTO AYROSO, defendant and appellant.

1. LAND REGISTRATION LAW; MORTGAGE EXECUTED BY AN IMPOSTOR A NULLITY; REGISTRATION DOES NOT VALIDATE MORTGAGE.—A mortgage executed by an impostor without the authority of the owner of the interest mortgaged is a nullity. Its registration under the Land Registration Law lends it no validity because, according to the last *proviso* to the second paragraph of section 55 of that law, registration procured by the presentation of a forged deed is null and void.
2. ID.; INNOCENT PURCHASERS FOR VALUE WHEN PROTECTED; DUTY OF VENDEE TO ASCERTAIN THE IDENTITY OF VENDOR.—Where the certificate of title was already in the name of the forger when the land was sold to an innocent purchaser, the vendee had the right to rely on what appeared in the certificate and, in the absence of anything to excite suspicion, was under no obligation to look beyond the certificate and investigate the title of the vendor appearing on the face of said certificate. But, where the title was still in the name of the real owner when the land was mortgaged to the plaintiffs by the impostor, although it was not incumbent upon them to inquire into the ownership of the property and go beyond what was stated on the face of the certificate of title, it was their duty to ascertain the identity of the man with whom they were dealing, as well as his legal authority to convey. That duty devolves upon all persons buying property of any kind, and one who neglects it does so at his peril.
3. ID.; ID.; ELEMENT ESSENTIAL TO THE APPLICATION OF PRINCIPLE OF EQUITY.—Before the principle of equity that “as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss” can be applied, it is essential that the fraud was made possible by the owner’s act in entrusting the certificate of title to another.
4. ID.; ID.; ID.; MORTGAGE FORGED WITHOUT NEGLIGENCE OF OWNER CAN NOT BE ENFORCED AGAINST HIM.—Where the mortgage is admittedly a forgery and the registered owner has not been shown to have been negligent or in connivance with the forger, the mortgage can not be enforced against the owner.
5. ID.; PURPOSE OF; LAW CAN NOT BE USED AS SHIELD FOR COMMISSION OF FRAUD.—Although the underlying purpose of the Land Registration Law is to impart stability and conclusiveness to transactions that have been placed within its operations, still that law does not permit its provisions to be used as a shield for the commission of fraud.

APPEAL from a judgment of the Court of First Instance of Nueva Ecija. Bonto, J.

The facts are stated in the opinion of the court.

*Lauro Esteban* for plaintiffs and appellants.

*Alfonso G. Espinosa* for defendant and appellee.

REYES, J.:

This is an action for foreclosure of mortgage.

From the stipulation of facts and the additional evidence submitted at the hearing the lower court found and it

is not disputed that the spouses Jacinto Ayroso and Manuela Lacanilao were the registered owners of a parcel of land, situated in the municipality of Cabanatuan, Nueva Ecija, their title thereto being evidenced by Transfer Certificate No. 4203 of the land records of that province. The land had an area of a little over  $3\frac{1}{2}$  hectares, but according to an annotation on the back of the certificate a large portion of that area—a little less than 3 hectares—had already been alienated, sold to the Pilgrim Holiness Church in 1940. The certificate was kept in Jacinto Ayroso's trunk in his house in the *población* of Cabanatuan, but somehow his daughter, Juliana Ayroso, managed to get possession of it without his knowledge and consent and gave it to a man whose name does not appear in the record. With the certificate in his possession and representing himself to be Jacinto Ayroso, this man was able to obtain from the plaintiff spouses the sum of ₱2,000, which he agreed to pay back in three months and as security therefor constituted a mortgage on Jacinto Ayroso's interest in the land covered by the certificate, signing the deed of mortgage with the latter's name. At that time, April 19, 1949, Jacinto Ayroso was already a widower, his wife having died on the 31st of the preceding month. Neither Jacinto Ayroso nor the man who impersonated him was personally known to the plaintiffs, though the latter believed in good faith that the two were one and the same person, the impostor being then accompanied by Ayroso's Daughter Juliana whom they knew personally and who also signed as a witness to the mortgage deed. The mortgage was later registered in the office of the Register of Deeds of Nueva Ecija and annotated on the back of the certificate of title. Jacinto Ayroso never authorized anyone to mortgage the land and received no part of the mortgage loan.

Upon the foregoing facts, the trial court rendered judgment declaring the mortgage invalid, ordering the Register of Deeds of Nueva Ecija to cancel the corresponding annotation on Transfer Certificate of Title No. 4203 and dismissing the complaint with costs. From this judgment an appeal has been taken directly to this court, and the question for determination is whether the said mortgage may be enforced by plaintiffs against the defendant Jacinto Ayroso.

There can be no question that the mortgage under consideration is a nullity, the same having been executed by an impostor without the authority of the owner of the interest mortgaged. Its registration under the Land Registration Law lends it no validity because, according to the last *proviso* to the second paragraph of section 55 of that law, registration procured by the presentation of a forged deed is null and void.

Plaintiffs, however, allege that they are innocent holders for value of a Torrens certificate of title, and on the authority of *Eliason vs. Wilborn* (281 U. S., 457), *De la Cruz vs. Fabie* (35 Phil., 144), and *Blondeau et al. vs. Nano and Vallejo* (61 Phil., 625), invoke the protection accorded to such holders. But an examination of those cases will show that they have no application to the one before us.

In the case first cited, *Eliason vs. Wilborn*, the appellants, owners of registered land, delivered the certificate of title to a party under an agreement to sell and the said party forged a deed to himself, had the certificate issued in his name and then conveyed it to others, who were good faith purchasers for value. Upholding the last conveyance, the U. S. Supreme Court said: "The appellants saw fit to entrust it (the certificate) to Napleton and they took the risk \* \* \*. As between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss."

In the second case, *De la Cruz vs. Fabie*, the attorney-in-fact of the owner of registered land, having been entrusted with the title to said property, abused the confidence thus reposed upon him; forged a deed in his favor, had a new title issued to himself and then conveyed it to another, who thereafter was issued a new certificate of title. This court held the purchaser to be the absolute owner of the land as an innocent holder of a title for value under section 55 of Act No. 496.

It will be noted that in both of the above cases the certificate of title was already in the name of the forger when the land was sold to an innocent purchaser. In such case the vendee had the right to rely on what appeared in the certificate and, in the absence of anything to excite suspicion, was under no obligation to look beyond the certificate and investigate the title of the vendor appearing on the face of said certificate to be the registered owner. It should also be noted that in both cases fraud was made possible by the owner's act in entrusting the certificate of title to another. And this should be emphasized because it is what impelled this court to apply in those cases the principle of equity that "as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss."

In the present case the title was still in the name of the real owner when the land was mortgaged to the plaintiffs by the impostor. And it is obvious that plaintiffs were defrauded not because they relied upon what appeared in a Torrens certificate of title—there was nothing wrong with the certificate—but because they believed the words of an impostor when he told them that he was the person

named as owner in the certificate. As the learned trial judge says in his decision, it was not incumbent upon plaintiffs to inquire into the ownership of the property and go beyond what was stated on the face of the certificate of title, but it was their duty to ascertain the identity of the man with whom they were dealing, as well as his legal authority to convey, if they did not want to be imposed upon. That duty devolves upon all persons buying property of any kind, and one who neglects it does so at his peril. It should be added that the appellee has not entrusted the certificate of title to anybody, an element essential to the application of the principle of equity above cited. It is thus clear that the circumstances which impelled this court, in the cases cited to extend protection to the innocent holders for value of the Torrens certificates, at the expense of the owner of the registered property, are not present in the case at bar.

Nor could the third case cited, *Blondeau et al. vs. Nano and Vallejo*, serve as a good precedent for the one now before us. That case, it is true, was also for foreclosure of mortgage, and the defense set up by the registered owner was also forgery. But it should be noted that in that case this court found as a fact that *the mortgage had not been forged* and in addition there was the circumstance that the registered owner had by his negligence or acquiescence, if not actual connivance, made it possible for the fraud to be committed. It is thus obvious that the case called for the application of the same principle of equity already mentioned, and the decision rendered by this court was in line with the two previous cases. But that decision does not fit the facts of the present case, where the mortgage is admittedly a forgery and the registered owner has not been shown to have been negligent or in connivance with the forger. The contention that it was negligence on appellee's part to leave the Torrens title in his trunk in his house in the *población* when most of the time he was in the farm, was we think well answered by the trial court when it said:

"\* \* \* it was not shown that the defendant has acted with negligence in keeping the certificate of title in his trunk in his own house. That his daughter was able to steal it or take it from the trunk without his knowledge and consent and was able to make use of it for a fraudulent purpose, (it) does not necessarily follow that he was negligent. It is in keeping with ordinary prudence in common Filipino homes for the owners thereof to keep their valuables in their trunks. It would be too much to expect of him that he should carry said certificate with him to wherever he goes."

On the other hand the considerations underlying the decision in the case of *Ch. Veloso & Rosales vs. La Urbana & Del Mar* (58 Phil., 681), cited by the appellee, would seem to be applicable to the present case. In the case cited,



the plaintiff Veloso, owner of certain parcels of registered land, brought action to annul certain mortgages constituted thereon by her brother-in-law, the defendant Del Mar, using two powers of attorney purportedly executed for that purpose by plaintiff and her husband Rosales, but which were in reality forged, the forgery having been committed by Del Mar himself. How Del Mar obtained possession of the certificate of title the report does not show, but the mortgages were duly registered and noted on the certificates of title. In holding the mortgages void, this court said:

“\* \* \* Inasmuch as Del Mar is not the registered owner of the mortgaged properties and inasmuch as the appellant was fully aware of the fact that it was dealing with him on the strength of the alleged powers of attorney purporting to have been conferred upon him by the plaintiff, it was his duty to ascertain the genuineness of said instruments and not rely absolutely and exclusively upon him the fact that the said powers of appeared to have been registered. In view of its failure to proceed in this manner, it acted negligently and should suffer the consequences and damages resulting from such transactions.” (P. 683.)

Appellants, however, contend that the doctrine laid down in that case has already been overruled by the Blondeau case, *supra*. This is not so, and to show that it is still good jurisprudence, this court quotes it with approval in *Lopez vs. Seva et al.* (69 Phil., 311), a case decided after the Blondeau decision.

We are with the learned trial judge in applying to the present case the principle underlying the decision in the Veloso case, which, as His Honor well says, “is fair and just because it stands for the security and stability of property rights under any system of laws, including the Torrens system,” affording protection against the dangerous tendency of unprincipled individuals “to enrich themselves at the expense of others thru illegal or seemingly lawful operations.” And as His Honor also says, “as between an interpretation and application of the law which serves as an effective weapon to curb such dangerous tendency or that which technically may aid or foment it, the choice is clear and unavoidable.” For, as repeatedly stated by this court, although the underlying purpose of the Land Registration Law is to impart stability and conclusiveness to transactions that have been placed within its operations, still that law does not permit its provisions to be used as a shield for the commission of fraud.

In view of the foregoing, the judgment appealed from is affirmed, with costs against the appellants.

*Parás, C. J., Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.*

*Padilla, J., did not take part.*

*Judgment affirmed.*

[No. L-6940. March 23, 1954]

MARIANO LICLICAN, DIONISIA CASTROG and ISABEL CASTROG, petitioners, *vs.* HON. MANUEL ARRANZ, Judge of the Court of First Instance of Isabela and BRIGIDA TOMAS, respondents.

PLEADING AND PRACTICE; FORCIBLE ENTRY AND DETAINER; REPRODUCTION OF ANSWER FILED IN THE JUSTICE OF THE PEACE COURT, SUFFICIENT COMPLIANCE WITH RULES.—Where the defendant has filed a written answer in the justice of the peace court, on appeal a written manifestation submitted on time to the effect that he is reproducing his answer already filed is a substantial compliance with the rule requiring defendant to make an answer within the reglementary period from the date of the receipt of the notice that the case has already been docketed.

ORIGINAL ACTION in the Supreme Court. Certiorari.

The facts are stated in the opinion of the court.

*Francisco S. Villarta* for petitioners.

*Manuel Arranz* in his own behalf.

BAUTISTA ANGELO, J.:

On September 20, 1952, Brigida Tomas filed an action for forcible entry and detainer against Mariano Liclican, Dionisia Castrog, and Isabel Castrog in the justice of the peace court of Cordon, Isabela. In due time, defendants filed an answer with a counterclaim to the complaint.

On January 10, 1953, the court rendered judgment ordering defendants to deliver the property in litigation to plaintiff, and to pay him, jointly and severally, ten cavans of palay, or their current value, for the agricultural year 1952-1953, plus the costs of action. From this decision, defendants appealed to the Court of First Instance, and, as required by the rules, the record of the case was transmitted to the latter court, it having been docketed as Civil Case No. 545.

Three days from receipt from the clerk of court of the notice that the case had been docketed, defendants submitted their answer stating therein that they were reproducing the answer they had filed in the justice of the peace court which was already attached to the record.

On June 16, 1953, defendants filed a motion praying for the postponement of the hearing on the ground that their attorney could not be present because he was sick, attaching to the motion the necessary medical certificate. On the date of hearing, June 17, 1953, the court denied the motion for postponement, but entertained the motion for default which was filed by plaintiff on the same date on the ground that defendants failed to file their answer within the reglementary period, whereupon it declared said defendants in default.

Defendants filed a motion for reconsideration contending that the answer they had filed on March 10, 1953, wherein they were reproducing the answer filed by them in the justice of the peace court, was sufficient in contemplation of the rules and, therefore, they cannot be declared in default. This motion having been denied, defendants interposed the present petition for certiorari.

The pleading which, according to petitioners, they filed in the lower court as an answer to the complaint, reads as follows:

"Come the defendants and appellants in the above entitled case through their undersigned attorney, and, in answer to the complaint hereby manifest that they reproduce the answer and counterclaim filed in this case in the Justice of the Peace Court of Cordon, Isabela, which is already attached to the records of the case."

Petitioners now contend that the above answer which seeks to reproduce the answer and counterclaim filed by them in the justice of the peace court is a sufficient compliance with the rules, and, therefore, respondent Judge committed an error in disregarding it and in declaring them in default.

Section 7, Rule 40, of the Rules of Court provides:

"SEC. 7. *Reproduction of complaint on appeal.*—Upon the docketing of the cause under appeal, the complaint filed in the justice of the peace or municipal court shall be considered reproduced in the Court of First Instance and it shall be the duty of the clerk of court to notify the parties of that fact by registered mail, and the period for making an answer shall begin with the date of the receipt of such notice by the defendant."

While the above-quoted rule provides that, upon the docketing of the cause under appeal, only the complaint filed in the justice of the peace court shall be considered reproduced, and not the answer, so much so that the party defendant is required to put his answer within the reglementary period from the date of the receipt of the notice to be given by the clerk of court, however, the filing of such answer in the form required by the rules is not necessary when the defendant has filed a written answer in the justice of the peace court. In lieu thereof, he may merely reproduce his answer by making a proper manifestation to that effect within the period required for the filing of the answer. To require otherwise would be a useless formality especially if the party concerned is not disposed of modifying the stand he has taken in the inferior court.

In the case of *Canaynay, et al., vs. Tan, et al.*, L-2336, April 27, 1949, this Court had occasion to state the reason why an answer is not deemed reproduced when a case is appealed from a justice of the peace or municipal court. We there said:

"It must be stated in this connection that what is deemed reproduced in the Court of First Instance upon the docketing of the case therein, is only the complaint but not the answer filed in the

justice of the peace or municipal court. The reason is that there may be no answer filed in the justice of the peace court or that if there is any filed therein, it may be changed in the Court of First Instance where a trial *de novo* is to be held. Although neither the plaintiff nor the defendant may change on appeal in the Court of First Instance the questions raised by the pleadings in the inferior court, a denial that may have been made in the justice of the peace court may be changed into admission, or a special defense interposed therein may be withdrawn in the Court of First Instance. It is then necessary for the defendant to redefine his stand in the Court of First Instance by filing an answer in due time, and his failure to do so is ground for default."

The present case should be differentiated from the Canaynay case. In the latter case, while the defendant filed an answer in the justice of the peace court, he failed to make a written manifestation expressing his desire to reproduce the answer he had already filed. This manifestation is necessary in order to apprise the court of his desire to reproduce the same answer, and having failed to do so, he was declared in default. In the present case, defendants submitted on time such written manifestation. We declare that this is a substantial compliance with the rule and is in line with the reasoning advanced by this Court in the Canaynay case.

Petition is granted without pronouncement as to costs.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, Concepcion, and Diokno, JJ., concur.*

*Petition granted.*

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[No. L-6706. March 29, 1954]<sup>1</sup>

ALFREDO JAVIER, petitioner, *vs.* HON. ANTONIO G. LUCERO,  
Judge of the Court of First Instance of Cavite;  
SALUD R. ARCA and ALFREDO JAVIER, JR., respondents.

1. JUDGMENT; IMMEDIATE EXECUTION THEREOF PENDING APPEAL.—  
The order of the court directing petitioner to pay monthly pensions to his wife and son notwithstanding the pendency of his appeal having been issued before the record on appeal was submitted, the court did not exceed its jurisdiction in issuing the same.
2. ID.; ID.; GROUNDS FOR IMMEDIATE EXECUTION.—One of the good reasons for the immediate execution of judgment pending appeal is where the education of the person to be supported would be unduly delayed if financial assistance is to be rendered only at the termination of the appeal.
3. SUPPORT; ACQUITTAL OF A BIGAMY CHARGE, NOT GROUND FOR FORFEITURE.—Acquittal of husband of a bigamy charge for lack of criminal intent is no different from an acquittal on reasonable doubt which would not be a ground for forfeiture of his wife's right to support.

ORIGINAL ACTION in the Supreme Court. Certiorari with preliminary injunction.

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<sup>1</sup> Motion for reconsideration, denied May 12, 1954.

The facts are stated in the opinion of the court.

*David F. Barrera* for petitioner.

*Jacinto, Santillan & Roxas* for respondents.

BENGZON, J.:

In an action for alimony (Civil Case No. 5150, Cavite), the respondent judge, after hearing the parties and their evidence, ordered Alfredo Javier to give a monthly allowance of ₱60 to his wife Salud R. Arca and their son Alfredo Javier Jr.

On April 14, 1953 the husband filed a notice of appeal, and on May 6, 1953, he submitted the appeal bond and the record on appeal. Meanwhile the wife and the son presented on April 30, 1953 a motion for "support *pendente lite*" "even pending the final determination of the case on appeal". Whereupon on May 8, 1953, the judge directed Alfredo Javier to pay the monthly pensions notwithstanding the pendency of his appeal.

Here comes Alfredo Javier with a petition for certiorari challenging such directive and arguing, in his own words:

"1. The status of Salud R. Arca as wife of the petitioner is being contested;

"2. Alfredo Javier, Jr. is over 21 years on March 31, 1953 and no longer entitled to be supported; and

"3. Even granting that Alfredo Javier, Jr. is entitled to support even if over 21 years of age to complete his education or training for some profession, trade or vocation, the support could not be paid because the decision is vague or silent on that point."

The facts, as found in the action for support, are these:

"On November 19, 1937, plaintiff Salud R. Arca and defendant Alfredo Javier had their marriage solemnized by Judge Mariano Nable of the Municipal Court of Manila. At the time of their marriage, they had already begotten a son named Alfredo Javier Junior who was born on December 2, 1931. Sometime in 1938, defendant Alfredo Javier left for the United States on board a ship of the United States Navy, for it appears that he had joined the United States Navy since 1927, such that at the time of his marriage with plaintiff Salud R. Arca, defendant Alfredo Javier was already an enlisted man in the United States Navy. Because of defendant Alfredo Javier's departure for the United States in 1938, his wife Salud R. Arca, who is from Tanza, Cavite, chose to live with defendant's parents at Naic, Cavite. But for certain incompatibility of character (frictions having occurred between plaintiff Salud R. Arca and defendant's folks) plaintiff Salud R. Arca had found it necessary to leave defendant's parents' abode and transfer her residence to Tanza, Cavite—her native place. Since then the relation between plaintiff Salud R. Arca and defendant Alfredo Javier became strained such that on August 13, 1940 defendant Alfredo Javier brought an action for divorce against plaintiff Salud R. Arca before the Circuit Court of Mobile County, State of Alabama, USA, docketed as Civil Case No. 14318 of that Court and marked as Exhibit 2(c) in this case. Having received a copy of the complaint for divorce on September 23, 1940, plaintiff Salud R. Arca—answering the complaint—

alleged in her answer that she received copy of the complaint on September 23, 1940 although she was directed to file her answer thereto on or before September 13, 1940. In that answer she filed, plaintiff Salud R. Arca averred among other things that defendant Alfredo Javier was not a resident of Mobile County, State of Alabama, for the period of twelve months preceding the institution of the complaint, but that he was a resident of Naic, Cavite, Philippines. Another averment of interest, which is essential to relate here, is that under paragraph 5 of her answer to the complaint for divorce, Salud R. Arca alleged that it was not true that the cause of their separation was desertion on her part but that if the defendant Alfredo Javier was in the United States at that time and she was not with him then it was because he was in active duty as an enlisted man of the United States Navy, as a consequence of which he had to leave for the United States without her. She further alleged that since his departure from the Philippines for the United States, he had always supported her and her co-plaintiff Alfredo Javier Junior through allotments made by the Navy Department of the United States Government. She denied, furthermore, the allegation that she had abandoned defendant's home at Naic, Cavite, and their separation was due to physical impossibility for they were separated by about 10,000 miles from each other. At this juncture, under the Old Civil Code, the wife is not bound to live with her husband if the latter has gone to ultra-marine colonies. Plaintiff Salud R. Arca, in her answer to the complaint for divorce by defendant Alfredo Javier, prayed that the complaint for divorce be dismissed. However, notwithstanding Salud R. Arca's averments in her answer, contesting the jurisdiction of the Circuit Court of Mobile County, State of Alabama, to take cognizance of the divorce proceeding filed by defendant Alfredo Javier, as shown by her answer marked Exhibit 2(d), nevertheless the Circuit Court of Mobile County rendered judgment decreeing dissolution of the marriage of Salud R. Arca and Alfredo Javier, and granting the latter a decree of divorce dated April 9, 1941, a certified copy of which is marked Exhibit 2(f). Thereupon, the evidence discloses that some time in 1946 defendant Alfredo Javier returned to the Philippines but went back to the United States.

In July, 1941—that is after securing a divorce from plaintiff Salud R. Arca on April 9, 1941—defendant Alfredo Javier married Thelma Francis, an American citizen, and bought a house and lot at 248 Brooklyn, New York City. In 1949, Thelma Francis, defendant's American wife, obtained a divorce from him for reasons not disclosed by the evidence, and, later on, having retired from the United States Navy, defendant Alfredo Javier returned to the Philippines, arriving here on February 13, 1950. After his arrival in the Philippines, armed with two decrees of divorce—one against his first wife Salud R. Arca and the other against him by his second wife Thelma Francis—issued by the Circuit Court of Mobile County, State of Alabama, USA, defendant Alfredo Javier married Maria Odvina before Judge Natividad Almeda-Lopez of the Municipal Court of Manila on April 19, 1950, marked Exhibit 2(b).

At the instance of plaintiff Salud R. Arca an information for bigamy was filed by the City Fiscal of Manila on July 25, 1950 against defendant Alfredo Javier with the Court of First Instance of Manila, docketed as Criminal Case No. 13310 and marked Exhibit 2(a). However, defendant Alfredo Javier was acquitted of the charge of bigamy in a decision rendered by the Court of First Instance of Manila through Judge Alejandro J. Panlilio, dated August 10, 1951, predicated on the proposition that the marriage



of defendant Alfredo Javier with Maria Odvina was made in all good faith and in the honest belief that his marriage with plaintiff Salud R. Arca had been legally dissolved by the decree of divorce obtained by him from the Circuit Court of Mobile County, State of Alabama, USA, which had the legal effect of dissolving the marital ties between defendant Alfredo Javier and plaintiff Salud R. Arca. At this juncture, again, it is this Court's opinion that defendant Alfredo Javier's acquittal in that Criminal Case No. 13310 of the Court of First Instance of Manila by Judge Panlilio was due to the fact that the accused had no criminal intent in contracting a second or subsequent marriage while his first marriage was still subsisting."

Turning now to the petition for certiorari, we perceive that, as to its first ground the respondent judge declared in his decision that Alfredo Javier and Salud Arca were married on November 19, 1937 when they had already a natural son named Alfredo Javier Junior, born December 2, 1931, and that, notwithstanding a decree of divorce which the husband Alfredo obtained in the United States in 1941, their marriage still subsists. Such being the situation, the principle in *Francisco vs. Zanduetta* 61 Phil., 752 on which petitioner entirely relies is not controlling, inasmuch as the existence of the married relation and the paternity had been established at least *prima facie* (cf. *Sanchez vs. Zulueta* 68 Phil., 112.) Besides, as respondents point out, this is strictly not alimony *pendente lite*, under Rule 63, but execution of judgment pending appeal, under Rule 39.<sup>1</sup>

In connection with the second ground of the petition, respondents observe that under the new Civil Code, article 290 support also includes the education of the person to be supported "until he complete his education or training for some profession, trade or vocation even beyond the age of majority" and on the basis of this article support was granted to Alfredo Javier Junior. Said the Court, "while it is true that plaintiff Alfredo Javier Junior, who was born on December 2, 1931, has reached the age of majority on December 2, 1952, yet, under the last part of article 290 of the new Civil Code, support may be given him even beyond the age of majority in order to enable him to complete his education, for some trade or profession."

Now then, was the order issued in excess of jurisdiction or with grave abuse of discretion? The court undoubtedly had jurisdiction, inasmuch as it was issued before the record on appeal was submitted. (*Sumulong vs. Imperial* 51 Phil., 251; *Syquia vs. Concepcion* 60 Phil., 186). Did the judge abuse his discretion?

Unquestionably, Alfredo Javier, Jr. is the son of petitioner Alfredo Javier, and if financial assistance is to be rendered only at the termination of the appeal his

<sup>1</sup> Moran, 1952 ed., Vol. 2 p. 117.

education, or the completion thereof, would be unduly delayed. That is good reason for immediate execution. Petitioner claims that according to the records Alfredo Javier, Jr. "is no longer studying". Yet probably he stopped going to school due to lack of means, since the petitioner himself admits that his son is just a pre-law graduate.

But the real grievance of petitioner is contained in the last portion of his pleading, which says, "What Alfredo Javier now tries to avoid is to support a woman who has desperately tried to put him in jail, when she accused him of bigamy." Such disgust is easily understandable. But compliance with legal and contractual duties is not always pleasant.

Under the New Civil Code articles 303 and 921 the wife forfeits her husband's support after "she has accused (him) of a crime for which the law prescribes imprisonment for six years or more, and the accusation has been found to be false." If bigamy is such a crime, and if her accusation had been found to be false, Salud Arca would lose her privilege. But the accusation was not "found to be false". Admittedly, he married a third time without the first marriage having been dissolved; but he was cleared of the bigamy charge for lack of criminal intent, inasmuch as he believed his divorce obtained in the U. S., had already ended his first marriage to Salud R. Arca. Such acquittal is no different from an acquittal on reasonable doubt, which in our opinion, and in the opinion of a member of the Code Commission that framed the New Civil Code, would not be ground to forfeit her right to support.<sup>2</sup>

Of course, the question whether Alfredo Javier's prosecution for bigamy and subsequent acquittal extinguished his obligation to maintain his complaining spouse will definitely be decided when the main case (No. 5150) is reviewed on appeal. Other aspects of the issue could then undoubtedly be the subject of research and elucidation<sup>3</sup>. Nevertheless we briefly explain our first impressions or provisional conclusion in the task of examining the alleged misuse by respondent judge of his prerogatives. It is

<sup>2</sup> Capistrano, Civil Code Vol. II pp. 419, 423.

<sup>3</sup> For instance; (A) Must the judgment of acquittal specifically declare that the accusation was false? (Scaevola, Código Civil (5th Ed) Vol. XIII p. 399). Note that the Civil Code used the phrase "declarada calumniosa" (Art 756) and possibly "acusación o denuncia falsa" (Art. 340, Penal Code of 1870) was contemplated. (B) Is bigamy within the purview of Art. 921? Under the Revised Penal Code (Art. 347 Rev. Penal Code in connection with Indeterminate Sentence Law) the minimum could be six months and one day. Or does article 921 include any crime whose *maximum* punishment is six years or more?

markworthy that the son has not forfeited his right to support.

As the issues are presently framed, petitioner has failed to sustain the burden of demonstrating the judge's clear error or grievous mistake in ordering execution of his judgment pending appeal. Costs against petitioner.

*Parás, C. J., Pablo, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.*

*Petition denied.*

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[No. L-6791. March 29, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,  
*vs. QUE PO LAY*, defendant and appellant

1. CRIMINAL LAW; PENAL LAWS AND REGULATIONS IMPOSING PENALTIES, NEED BE PUBLISHED IN THE OFFICIAL GAZETTE BEFORE IT MAY BECOME EFFECTIVE.—Circulars and regulations, especially like Circular No. 20 of the Central Bank which prescribes a penalty for its violation, should be published before becoming effective. Before the public may be bound by its contents, especially its penal provisions, a law, regulation or circular must be published and the people officially and specifically informed of said contents and its penalties.
2. *Id.*; JURISDICTION; APPEALS; QUESTIONS THAT MAY BE RAISED FOR THE FIRST TIME ON APPEAL.—If as a matter of fact Circular No. 20 had not been published as required by law before its violation, then in the eyes of the law there was no such circular to be violated and consequently the accused committed no violation of the circular, and the trial court may be said to have no jurisdiction. This question may be raised at any stage of the proceeding whether or not raised in the court below.

APPEAL from a judgment of the Court of First Instance of Manila. *Castelo, J.*

The facts are stated in the opinion of the court.

*Prudencio de Guzman* for defendant and appellant.

*First Assistant Solicitor General Ruperto Kapunan, Jr.,*  
and *Solicitor Lauro G. Marquez* for plaintiff and appellee.

MONTEMAYOR, *J.*:

Que Po Lay is appealing from the decision of the Court of First Instance of Manila, finding him guilty of violating Central Bank Circular No. 20 in connection with section 34 of Republic Act No. 265, and sentencing him to suffer six months imprisonment, to pay a fine of ₱1,000, with subsidiary imprisonment in case of insolvency, and to pay the costs.

The charge was that the appellant who was in possession of foreign exchange consisting of U. S. dollars, U. S. checks and U. S. money orders amounting to about \$7,000 failed to sell the same to the Central Bank through its agents within one day following the receipt of such foreign exchange as required by Circular No. 20. The appeal is

based on the claim that said circular No. 20 was not published in the Official Gazette prior to the act or omission imputed to the appellant, and that consequently, said circular had no force and effect. It is contended that Commonwealth Act No. 638 and Act No. 2930 both require said circular to be published in the Official Gazette, it being an order or notice of general applicability. The Solicitor General answering this contention says that Commonwealth Act No. 638 and Act 2930 do not require the publication in the Official Gazette of said circular issued for the implementation of a law in order to have force and effect.

We agree with the Solicitor General that the laws in question do not require the publication of the circulars, regulations or notices therein mentioned in order to become binding and effective. All that said two laws provide is that laws, resolutions, decisions of the Supreme Court and Court of Appeals, notices and documents required by law to be published shall be published in the Official Gazette but said two laws do not say that unless so published they will be of no force and effect. In other words, said two Acts merely enumerate and make a list of what should be published in the Official Gazette, presumably, for the guidance of the different branches of the government issuing same, and of the Bureau of Printing.

However, section 11 of the Revised Administrative Code provides that statutes passed by Congress shall, in the absence of special provision, take effect at the beginning of the fifteenth day after the completion of the publication of the statute in the *Official Gazette*. Article 2 of the new Civil Code (Republic Act 386) equally provides that laws shall take effect after fifteen days following the completion of their publication in the Official Gazette, unless it is otherwise provided. It is true that Circular No. 20 of the Central Bank is not a statute or law but being issued for the implementation of the law authorizing its issuance, it has the force and effect of law according to settled jurisprudence. (See *U. S. vs. Tupasi Molina*, 29 Phil., 119 and authorities cited therein.) Moreover, as a rule, circulars and regulations especially like the Circular No. 20 of the Central Bank in question which prescribes a penalty for its violation should be published before becoming effective, this, on the general principle and theory that before the public is bound by its contents, especially its penal provisions, a law, regulation or circular must first be published and the people officially and specifically informed of said contents and its penalties.

Our old Civil Code (Spanish Civil Code of 1889) had a similar provision about the effectivity of laws, Article 1 thereof), namely, that laws shall be binding twenty days after their promulgation, and that their promulgation shall

be understood as made on the day of the termination of the publication of the laws in the *Gazette*. Manresa, commenting on this article is of the opinion that the word "laws" include regulations and circulars issued in accordance with the same. He says:

"El Tribunal Supremo, ha interpretado el artículo 1.º del Código Civil en Sentencia de 22 de junio de 1910, en el sentido de que bajo la denominación generica de leyes, se comprenden también los *Reglamentos*, Reales decretos, Instrucciones, *Circulares* y Reales ordenes dictadas de conformidad con las mismas por el Gobierno en uso de su potestad. También el poder ejecutivo lo ha venido entendiendo así, como lo prueba el hecho de que muchas de sus disposiciones contienen la advertencia de que empiezan a regir el mismo día de su publicación en la Gaceta, advertencia que seria perfectamente inutil si no fuera de aplicacion al caso el artículo 1.º del Código Civil." (*Manresa, Código Civil Español, Vol. I, p. 52.*)

In the present case, although Circular No. 20 of the Central Bank was issued in the year 1949, it was not published until November 1951, that is, about 3 months after appellant's conviction of its violation. It is clear that said circular, particularly its penal provision did not have any legal effect and bound no one until its publication in the *Official Gazette* or after November 1951. In other words, appellant could not be held liable for its violation for it was not binding at the time he was found to have failed to sell the foreign exchange in his possession within one day following his taking possession thereof.

But the Solicitor General who contends that this question of non-publication of the circular is being raised for the first time on appeal in this court, which cannot be done by appellant. Ordinarily, one may raise on appeal any question of law or fact that has been raised in the court below and which is within the issues made by the parties in their pleadings. (Section 19, Rule 48 of the Rules of Court). But the question of non-publication is fundamental and decisive. If as a matter of fact Circular No. 20 had not been published as required by law before its violation, then in the eyes of the law there was no such circular to be violated and consequently appellant committed no violation of the circular or committed any offense, and the trial court may be said to have had no jurisdiction. This question may be raised at any stage of the proceeding whether or not raised in the court below.

In view of the foregoing, we reverse the decision appealed from and acquit the appellant, with costs *de oficio*.

*Parás, C. J., Bengzon, Padilla, Reyes, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.*

*Judgment reversed.*

[No. L-4989. 30 March 1954]<sup>1</sup>

MARCIANO INOCENTE ET AL., petitioners and appellants, *vs.*  
MAMERTO S. RIBO ET AL., respondents and appellees

1. ADMINISTRATIVE LAW; CIVIL SERVICE ELIGIBLES; GROUNDS FOR REMOVAL; UNLAWFUL REMOVAL ENTITLES PETITIONERS TO RE-INSTATEMENT AND SALARIES.—The removal without cause and not in accordance with law of petitioners, who are civil service eligibles, is unauthorized and unlawful. They are entitled to be reinstated and to their salary for the whole period of their unlawful ouster from office.
2. ID.; ID.; POWER OF PROVINCIAL GOVERNOR TO TRANSFER EMPLOYEES FROM ONE POSITION TO ANOTHER.—Where there is no proof under the rules and regulations of the office concerned that petitioners are transient officials or employees who may, from time to time, be transferred from one municipality to another in the interest of the public service, the provincial governor cannot transfer them from the positions to which they were appointed to another, pursuant to section 2081 of the Revised Administrative Code, as amended by Republic Act No. 528, which took effect on 16 June 1950.
3. ID.; ID.; REFUSAL TO BE TRANSFERRED DOES NOT CONSTITUTE ABANDONMENT OF OFFICE.—An employee cannot be deemed to have refused a transfer to a position which he could not assume. If he cannot be deemed to have refused the transfer, there is no basis for the pronouncement that he abandoned a position or office which he has not assumed because he could not assume it. An office cannot be abandoned by one who has not occupied it.
4. ID.; REPLACEMENT OF NON-ELIGIBLE VETERAN BY ANOTHER NON-ELIGIBLE VETERAN.—Granting that the respondents are veterans, as they were not appointed within the three-year period provided for in Republic Act No. 65, as amended, they are not entitled to be appointed to replace the petitioners who are veterans.
5. ID.; TEMPORARY APPOINTMENT TO REPLACE A VETERAN WHOSE PREFERENCE FOR APPOINTMENT HAD LAPSED.—The temporary appointment of respondent C under section 682 of the Revised Administrative Code to replace M, a veteran, whose preference for appointment had lapsed, is lawful.
6. ID.; APPOINTMENT MADE BEYOND THE THREE-YEAR PERIOD.—Petitioner M who was appointed beyond the three-year period provided for by law is no longer entitled to his position, because pursuant to section 682 of the Revised Administrative Code, he may be replaced by another temporary officer.
7. ID.; HOLDING OF AN OFFICE BY A TEMPORARY APPOINTEE; TEMPORARY APPOINTMENT TO REPLACE INCUMBENTS WHOSE QUALIFICATIONS ARE UNKNOWN.—The three-month period provided for in section 682 of the Revised Administrative Code allows under certain conditions the holding of an office or employment by a temporary appointee during the whole term but does not confer upon him the right to hold the office or employment for the full term. The temporary appointment under section 682 of the Revised Administrative Code of another person to replace an employee whose qualifications are unknown, is lawful.

APPEAL from a judgment of the Court of First Instance  
of Leyte, Diez, J.

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<sup>1</sup> Entry of final judgment, April 21, 1954.



The facts are stated in the opinion of the Court.

*Veloso, Cablitias, Saavedra and Omana* for petitioners and appellants.

*Leon C. Nuevas* for respondents and appellees.

PADILLA, J.:

This is a *quo warranto* case. The petitioners claim that they are entitled to hold the office of provincial guards at the provincial jail in the municipality of Baybay, Province of Leyte, to which they were duly appointed; that except Mamerto S. Ribo and Melecio Palma, provincial governor and treasurer, respectively, the respondents, who replaced them in their positions, are not entitled thereto, because their appointments are unauthorized, and for that reason they pray that they and not the respondents be declared entitled to the office of provincial guards with station at Baybay, Leyte.

At the hearing the parties submitted a stipulation which reads thus—

Come now the parties hereto duly assisted by their respective counsel and to this Honorable Court respectfully submit stipulation of facts as follows:

1. That the parties, petitioners and respondents, are residents of the Province of Leyte within the jurisdiction of this Court;

2. That the positions of provincial guard stationed in the Baybay provincial jail, subject matter of this petition, were duly created by law;

3. That the petitioners were duly appointed members of the Provincial Guard Corps stationed at Baybay, Leyte, on the dates indicated after their respective names, and they duly qualified and assumed office, discharged their duties as such provincial guards on the dates herein below indicated, to wit:

Name of Petitioner	Date of Appointment	Position
1. Marciano Inocente .....	Sept. 1, 1949	Sgt., P. G.
2. Cresencio Bagaslao .....	Sept. 1, 1949	Pvt., P. G.
3. Sulpicio Rule .....	Feb. 15, 1949	Pvt., P. G.
4. Alejandro Acedillo .....	Aug. 8, 1949	Pvt., P. G.
5. Telesforo Galenzoga .....	Sept. 1, 1949	Pvt., P. G.
6. Francisco Sevilla .....	Oct. 1, 1950	Pvt., P. G.
7. Diome Modina .....	Aug. 12, 1950	Pvt., P. G.
8. Epifanio Enclona .....	Feb. 20, 1949	Pvt., P. G.
9. Diosdado Piastro .....	Sept. 1, 1949	Pvt., P. G.
10. Quirino Japon .....	Sept. 16, 1949	Pvt., P. G.
11. Epifanio Polístico .....	July 1, 1948	Pvt., P. G.
12. Adriano Catorce .....	Sept. 16, 1949	Pvt., P. G.
13. Adriano Palugod .....	Aug. 9, 1949	Pvt., P. G.
14. Florderico Cortéz .....	Aug. 9, 1949	Pvt., P. G.

as shown in Exhibits "A" to "A-13."

4. That Marciano Inocente and Telesforo Galenzoga are civil service eligibles having passed the patrolman examinations as shown by Exhibits "B" and "B-1," and the rest of the petitioners are non-eligibles but Cresencio Bagaslao, Sulpicio Rule, Alejandro Acedillo and Adriano Catorce, are veterans and the rest recognized guerrillas, under Republic Act No. 65; Marciano Inocente took the

place of Ciriaco Fallorina, also civil service eligible, as shown in Exhibit "1."

5. That from the respective dates of petitioner's assumption of office and the termination of their services, as herein below indicated, to wit:

Name of petitioner	Assumption	Termination
1. Marciano Inocente .....	Sept. 6, 1949	Oct. 31, 1950
2. Cresencio Bagaslao .....	Sept. 1, 1949	Oct. 31, 1950
3. Sulpicio Rule .....	Feb. 16, 1949	Nov. 9, 1950
4. Alejandro Acedillo .....	Aug. 17, 1949	Oct. 31, 1950
5. Telesforo Calenzoga .....	Sept. 1, 1949	Oct. 31, 1950
6. Francisco Sevilla .....	Oct. 4, 1950	Oct. 31, 1950
7. Diome Modina .....	Aug. 18, 1950	Oct. 31, 1950
8. Epifanio Enclona .....	Feb. 23, 1948	Oct. 31, 1950
9. Diosdado Piastro .....	Sept. 1, 1949	Oct. 31, 1950
10. Quirino Japon .....	Sept. 16, 1949	Oct. 31, 1950
11. Epifanio Polístico .....	Feb. 16, 1947	Nov. 9, 1950
12. Adriano Catorce .....	Sept. 16, 1949	Oct. 31, 1950
13. Adriano Palugod .....	Aug. 11, 1949	Oct. 31, 1950
14. Florderico Cortéz .....	Aug. 10, 1949	Oct. 31, 1950

the said petitioners have continuously performed the duties of their office regularly and without interruption.

6. That on the dates indicated after their names as above shown, the petitioners' services were ordered terminated by the Provincial Governor, Hon. Mamerto S. Ribo, as shown in Exhibits "C" to "C-13," and their positions were occupied by the following:

		Date assumed office
1. Nazario Viterbo .....	vice Alejandro Acedillo ....	Nov. 1, 1950
2. Ponciano Loterte .....	vice Epifanio Enclona.....	Nov. 1, 1950
3. Filemón Lagutan .....	vice Quirino Japon .....	Nov. 1, 1950
4. Juan Caones .....	vice Adriano Palugod .....	Nov. 1, 1950
5. Jovito Matillano .....	vice Diosdado Piastro .....	Nov. 1, 1950
6. Quirico Llonas .....	vice Florderico Cortéz ....	Nov. 1, 1950
7. Victoriano Zabate .....	vice Epifanio Polístico ....	Nov. 8, 1950
8. Genaro Gelig .....	vice Telesforo Galenzoga..	Nov. 1, 1950
9. Silvino Baquerfo .....	vice Sulpicio Rule.....	Nov. 8, 1950
10. Francisco Dichosa .....	vice Cresencio Bagaslao....	Nov. 1, 1950
11. Igmedio Paciencia .....	vice Adriano Catorce .....	Nov. 1, 1950
12. Bernardo Corsanes ....	vice Diome Modina .....	Nov. 1, 1950
13. Andronico Morfe .....	vice Clodualdo Enabore.....	Oct. 28, 1950
14. Zósimo Macaraya .....	vice Gavino Salvación .....	Nov. 8, 1950

as shown by documents which are marked Exhibits "3" to "16."

7. That since the aforesaid petitioners have been duly appointed and qualified and assumed the performance of their respective offices, they did not resign nor have they been removed either for misconduct, incompetency, disloyalty to the Philippine Government, neither have they ever committed any irregularity in the performance of their duties nor have they violated any law or duty or committed any act that may cause abandonment of their duties nor have they been investigated for cause but they had to give up their positions by virtue of the order of termination. Petitioner Marciano Inocente signed the memorandum, dated October 31, 1950, which is marked Exhibit "2".

8. That until the present the respondents, Governor, Treasurer and Guards, have refused and continue to refuse the petitioners their respective positions above mentioned and they have not been

paid their salaries from the time of their termination of their services or removal from their offices until the present.

9. That the respondent, Mamerto S. Ribo, appointed the respondents on the dates indicated after their names and the latter took oath and assumed office as specified in paragraph 6 and continue to hold the same up to the present time and have been paid their respective salaries from November 1, 1950 to March 15, 1951 against the protests of the petitioners.

10. Respondents and petitioners admit the authenticity and due execution of Exhibits "D," and "D-1," "D-2," and "D-3," "E," "E-1," and "F" of petitioners and of Exhibits "3" to "28" of respondents without admitting their validity, legality nor the conclusions contained therein.

Wherefore, the parties to this Honorable Court most respectfully submit the foregoing stipulation of facts with the reservation to submit such additional evidence as each party deem necessary.

Baybay, Leyte, March 19, 1951.

ATTYS. PRISCO M. BITOS & LEON  
C. NUEVAS, *Counsel for the re-*  
*spondents.*

ATTYS. DOMINGO VELOSO, ZÓSIMO  
J. CABLITAS and FILEMÓN SA-  
AVEDRA, *Counsel for the peti-*  
*tioners.*

By: (Sgd.) PRISCO M. BITOS By: (Sgd.) ZÓSIMO J. CABLITAS

(Sgd.) ANDRÉS T. DELFINO  
*Counsel for the Provincial*  
*Governor and Provincial*  
*Treasurer*

(Pages 85-88, Record of the Case.)

Exhibit 22 is an indorsement dated 8 November 1950 where by direction of the provincial governor the secretary of the provincial board informed Marciano Inocente that José Tualla had been assigned as deputy warden of the Baybay provincial jail and that his (Inocente's) request to remain in the service had been granted not as deputy warden but as sergeant assigned to Maasin provincial jail and such assignment to take effect on the date José Tualla assumes office as deputy warden of the Baybay provincial jail. It does not appear that José Tualla has assumed the office. Exhibit 23 is a letter dated 3 February 1951 where by direction of the provincial governor the secretary of the provincial board requested Telesforo Galenzoga to come to Tacloban to report for duty as provincial guard at the Tacloban provincial jail, in view of the information furnished by the Commissioner of Civil Service that he (Telesforo Galenzoga) was a civil service eligible.

Upon the foregoing stipulation and documentary evidence presented, the trial court held that, with the exception of Marciano Inocente and Telesforo Galenzoga, who are civil service eligibles, the petitioners are not entitled to hold the position as provincial guards and that Marciano Inocente having refused the transfer from the Baybay provincial jail where he was deputy provincial warden to Maasin provincial jail as sergeant of the provincial guards,

and Telesforo Galenzoga having refused to report for duty as provincial guard at Tacloban provincial jail, they are no longer entitled to their original positions, for, in the opinion of the trial court, the provincial governor is vested with authority, control and supervision of the provincial guards in his province and he alone has the power and discretion to determine the assignment of said provincial guards within the province as required by the public interests. The trial court further held that the refusal of the two petitioners to be transferred constitutes an abandonment of office. Nevertheless, the trial court held that they are entitled to their respective salaries from the date they were unjustifiably dismissed to the date when they were offered reinstatement in the service. Upon these grounds, the trial court dismissed the petition for *quo warranto* but ordered the provincial treasurer of Leyte to pay the salaries of Marciano Inocente and Telesforo Galenzoga as sergeant and provincial guard, respectively, from 31 October 1950, when they were dismissed from the service, to 8 November 1950 and 3 February 1951, respectively, when the offer to reinstate them in the service was unjustifiably refused, without special pronouncement as to costs. From this judgment petitioners have appealed.

The only question raised by the petitioners Marciano Inocente and Telesforo Galenzoga is that being civil service eligibles, they are entitled to their positions as sergeant of the provincial guards and provincial guard, respectively, in the Baybay provincial jail, Leyte, to which they were appointed, and may be removed only for cause and in accordance with the prescribed legal process. Neither in the answers filed for the respondents provincial governor and treasurer of Leyte who are just nominal parties, nor in the answer for the rest of the respondents does the point of reinstatement, transfer and refusal to be transferred is raised and joined as issue by the parties. In the stipulation of facts the question of reinstatement, transfer and refusal to be transferred is not submitted for judgment of the trial court. It appearing that they were removed without cause and not in accordance with law, as prescribed and provided for in Rep. Act No. 557, their removal is unauthorized and unlawful. They are entitled to be reinstated and to their salary for the whole period of their unlawful ouster from office.

It is claimed, however, that the review of the judgment appealed from cannot sidetrack the question of reinstatement and transfer of, and refusal to be transferred by, the petitioner Marciano Inocente, which in the opinion of the trial court constitute an abandonment of office, because the trial court passed upon it. As already pointed out,

there is no evidence that José Tualla has assumed the position of deputy warden of the provincial jail at Baybay, a condition required before petitioner Marciano Inocente could assume the position of sergeant of the provincial guards at the Maasin provincial jail. He cannot be deemed to have refused a transfer to a position which he could not assume. If he cannot be deemed to have refused the transfer, there is no basis for the pronouncement that he abandoned a position or office which he has not assumed because he could not assume it. An office cannot be abandoned by one who has not occupied it. Apart from this, the provincial governor cannot remove petitioners Marciano Inocente and Telesforo Galenzoga who are civil service eligibles. They may be removed only in accordance with the provisions of Republic Act No. 557. The provincial governor cannot transfer them from the positions to which they were appointed to another, pursuant to section 2081 of the Revised Administrative Code, as amended by Republic Act No. 528, which took effect on 16 June 1950. The pertinent provisions of said section are:

\* \* \* the Provincial Governor shall, any provision of existing law to the contrary notwithstanding, appoint, upon recommendation of the chief provincial official concerned, all the subordinate officers and employees in the various branches of the provincial government whose salaries, compensation or wages are paid, wholly from provincial funds in conformity with the provisions of the Civil Service Law, except those appointments are now or may hereafter be vested in the President or proper Department Head, teachers and other school employees and transient officials or employees who shall, as heretofore, be appointed by the proper chief of provincial office with the approval of the Department Head concerned: \* \* \*.

Transient officials or employees shall be understood for the purposes of this Act to include those who, under the rules and regulations of the Department, bureaus and offices concerned, may, from time to time be transferred from one \* \* \* municipality \* \* \* to another in the interest of the public service.

Employees who are civil service eligibles at the time of the approval of this Act and thereafter shall continue in the service, unless removed for cause in accordance with the Civil Service rules and regulations.

If the petitioners Marciano Inocente and Telesforo Galenzoga were appointed as sergeant of the provincial guards and provincial guard, respectively, for the province of Leyte and not with a definite station at Baybay, Leyte, their respective transfers to Maasin and Tacloban, Leyte, might have a different legal aspect and effect. There is no proof that under the rules and regulations of the Department, bureau and office concerned, the petitioners are transient officials or employees who may, from time to time, be transferred from one municipality to another in the interest of the public service.

The claim of the other petitioners is that they are entitled to preference over the respondents who are not civil service eligibles, because although they are also not civil service eligibles, petitioners Cresencio Bagaslao, Sulpicio Rule, Alejandro Acedillo and Adriano Catorce are veterans, and the rest of them are members or enlisted men of good standing of recognized guerrilla organizations, under Republic Act No. 65, as amended by Republic Act No. 154, as agreed in paragraph 4 of the stipulation of facts, and were all appointed within the three-year period provided for in Republic Act No. 65, as amended, from the date of the approval of the Act, with the exception of Diome Modina and Francisco Sevilla who were appointed on 18 August 1950 and 4 October 1950, respectively, or beyond the said three-year period, according to paragraph 5 of the stipulation. The reason for the preference of a veteran is stated in *Orais vs. Ribo*, 49 Off. Gaz., 5386, 5393.

\* \* \* The replacement of \* \* \* non-eligibles but veterans by \* \* \* non-eligibles, is unlawful. The former are preferred under Republic Act No. 65, as amended by Republic Act No. 154, they having been appointed within the term provided for in said Republic Acts. If the preference of a veteran is to be confined to appointment and promotion only and does not include the right to continue to hold the position to which he was appointed until an eligible is certified by the Commissioner of Civil Service, then he would be in no better situation than a non-eligible who is not a veteran. The appointment of a veteran, however, is subject to cancellation or his removal from office or employment must be made by competent authority when the Commissioner of Civil Service certifies that there is an eligible.

It does not appear from the stipulation of facts that the respondents are civil service eligibles or that they are officers and enlisted men of the Philippine Army or of recognized or deserving guerrillas who took active participation in the resistance movement, and/or in the liberation drive against the enemy. And even if they were veterans under Republic Act No. 65, as amended, the respondents are not entitled to be appointed to replace the petitioners who are veterans, because the former were not appointed within the period provided in the Act. For that reason the temporary appointment of the respondents Nazario Beterbo, Ponciano Loterte, Filemón Lagutan, Juan Caones, Jovito Matillano, Quirico Llonas, Victoriano Zabate, Genaro Gelig, Silvino Baquerfo, Francisco Dichosa and Igmidio Paciencia, to replace the petitioners Alejandro Asedillo, Epifanio Enclona, Quirino Japon, Adriano Palugod, Diosdado Piastro, Florderico Cortéz, Epifanio Polistico, Telesforo Galenzoga, Sulpicio Rule, Cresencio Bagaslao and Adriano Catorce, is unlawful. The temporary appointment of respondent Bernardo Corsanes under sec-



tion 682 of the Revised Administrative Code to replace Diome Modina, a veteran, whose preference for appointment had lapsed, is lawful. Petitioner Diome Modina who was appointed on 18 August 1950, or beyond the three-year period provided for in Republic Act No. 65, as amended, is no longer entitled to his position, because pursuant to section 682 of the Revised Administrative Code, he may be replaced by another temporary officer. The three-month period provided for in section 682 of the Revised Administrative Code allows under certain conditions the holding of an office or employment by a temporary appointee during the whole term but does not confer upon him the right to hold the office or employment for the full term. The temporary appointment of Androníco Morfe and Zósimo Macaraya under section 682 of the Revised Administrative Code to replace Clodualdo Enabore and Gavino Salvación, who are not parties to this *quo warranto* proceedings and whose qualifications are unknown, is lawful. The petition of Francisco Sevilla who, according to the stipulation of facts, has not been replaced by any of the respondents, must be dismissed.

For the foregoing reasons the judgment appealed from is reversed. The petitioners are entitled to their positions as sergeant of the provincial guards and provincial guards, respectively, with station at the Baybay provincial jail, Leyte, and to their salaries during the whole period of their unlawful separation from their office. The petition of Francisco Sevilla is dismissed. The petition to oust respondents Bernardo Corsanes, Androníco Morfe and Zósimo Macaraya is denied. No special pronouncement as to costs.

*Pablo, Bengzon, Jugo, Bautista Angelo, and Concepción, JJ., concur.*

DIOKNO, M., disidente:

Disiento de la anterior decisión, por la razón de que, en mi humilde opinión, un guardia provincial puede ser repuesto y destinado por el Gobernador Provincial a otra estación policiaca de la provincia dentro de la misma, por ejemplo en otra cárcel provincial de la misma.

LABRADOR, J.:

I concur in this dissent.

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[No. L-5610. February 17, 1954]<sup>1</sup>

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellant,  
vs. JESUS BANGALAO, FILEMON JUBAHIB, FRANCISCO  
LOVENO and TITO ESTACA, defendants and appellees.

RAPE; JURISDICTION OF COURT OF FIRST INSTANCE; EFFECT OF CHANGE  
IN THE ALLEGATION AS TO THE MANNER OF COMMITTING THE

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<sup>1</sup> Entry of final judgment, March 12, 1954.

CRIME; DOUBLE JEOPARDY BARS APPEAL.—The right and power of the Court of First Instance to try the accused for the crime of rape attaches upon the filing of the complaint, and a change in the allegations thereof as to the manner of committing the crime should not operate to divest the court of the jurisdiction it has already acquired. While it is an error for the trial court to dismiss the case for lack of jurisdiction, the Fiscal's appeal from the order of dismissal can not prosper because the accused would be placed in double jeopardy.

APPEAL from an order of the Court of First Instance of Bohol. Alo, J.

The facts are stated in the opinion of the court.

*Assistant Solicitor General Guillermo E. Torres and Solicitor Jose G. Bautista* for plaintiff and appellant.

*Agapito Hontanosas* for defendants and appellees.

LABRADOR, J.:

The above-entitled case was begun in the Justice of the Peace Court of Tagbilaran, Bohol, upon complaint of Abundia Palban, mother of the offended party, Rosita Palban, a minor. The complaint alleges that the accused "by means of force and intimidation succeeded in having sexual intercourse, with one Rosita Palban, a minor." When the case reached the Court of First Instance, the provincial fiscal filed an information for rape, alleging that Rosita Palban is "a minor and demented girl", and that the defendants-appellees "successively had sexual intercourse with her by means of force and against the will of said Rosita Palban," and as a result of which she suffered less serious physical injuries in her genitalia.

In the Court of First Instance, with Hon. Hipolito Alo as presiding judge, the proceedings and trial were interrupted by failure of some of the witnesses to appear, and in the course of the hearing of a motion for the arrest of the absent witnesses, the father and the mother of the offended party, a motion was presented by counsel for the defense to quash the information on the ground that the court lacks jurisdiction to try the case. As ground for this motion, it was argued that while the complaint filed by the mother of the offended party alleges that the crime was committed through the use of force and intimidation, no such allegation exists in the informations filed by the provincial fiscal, and in lieu thereof allegation is made that the offended party is a minor and demented girl. A motion to the same effect had been previously denied in the earlier part of the proceedings by Judge Segundo Apostol, who had previously presided over the court that was trying the case. Judge Alo granted the motion to quash, stating that there was a difference between the complaint and the information insofar as the manner in

which the crime of rape was committed, and that although the information alleges also the use of force, the Fiscal admitted during the trial that he had no evidence to prove it. His Honor reasoning that the main basis of the charge contained in the information is the offended party's insanity, while the complaint, that of intimidation and force, so that the complaint alleges one way of committing the crime while the information charges another, held that as the allegation of force set forth in the information was not alleged in the complaint, the proceedings were not initiated by the person called upon by article 344 of the Revised Penal Code to file the complaint, and in violation of the rule enunciated in the case of *People vs. Oso*, 62 Phil., 271.

The Fiscal has appealed against the order of dismissal, claiming that the court had jurisdiction to try the case and that the lower court erred in applying the doctrine laid down in the case of *People vs. Oso*. The accused-appellees try to justify the order of dismissal, arguing that even if the lower court had erred in dismissing the case for lack of jurisdiction, they have the right to invoke the defense of double jeopardy, and this would be a bar to the prosecution of the appeal.

We find that His honor did not correctly apply our ruling in the case of *People vs. Oso*. In that case the complaint filed was for forcible abduction, while the information filed by the Fiscal was for rape. Inasmuch as the crime of rape is different from the crime of forcible abduction alleged in the complaint, said complaint could not serve as a basis for the court to acquire jurisdiction over the crime actually committed, rape. In the case at bar, however, the complaint was for rape, and this gave the court jurisdiction to try the case. The power of jurisdiction of the court is not over the crime of rape when committed on a minor and demented girl, but over rape, irrespective of the manner in which the same may have been committed.

It must be borne in mind that complaints are prepared in municipalities, in most cases without the advice or help of competent counsel. When the case reaches the court of first instance, the Fiscal usually conducts another investigation, and thereafter files the information which the results thereof justify. The right and power of the court to try the accused for the crime of rape attaches upon the filing of the complaint, and a change in the allegations thereof as the manner of committing the crime should not operate to divest the court of the jurisdiction it has already acquired. The right or power to try the case should be distinguished from the right of the accused to demand an acquittal unless it is shown that he has committed

the offense charged in the information even if he be found guilty of another offense; in the latter case, however, even if the court has no right to find the accused guilty because the crime alleged is different from that proved, it cannot be stated that the court has no jurisdiction over the case.

We are, therefore, constrained to hold that His honor committed an error in holding that the court had no jurisdiction to try the crime charged in the information, simply because it charges the accused with having committed the crime on a demented girl, instead of through the use of force and intimidation. However, we find the claim of the defendants-appellees that the appeal can not prosper because it puts them in double jeopardy, must be sustained. Under section 2, Rule 118 of the Rules of Court, the People of the Philippines can not appeal if the accused or defendant is placed thereby in double jeopardy. As the court below had jurisdiction to try the case upon the filing of the complaint by the mother of the offended party, the defendants-appellees would be placed in double jeopardy if the appeal is allowed.

Wherefore, the appeal is hereby dismissed, with costs *de officio*. So ordered.

*Parás, C. J., Bengzon, Padilla, Montemayor, Jugo, and Bautista Angelo, JJ., concur.*

*Appealed dismissed.*

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[No. L-5930. February 17, 1954]<sup>1</sup>

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*  
ADELO ARAGON, defendant and appellant

1. BIGAMY; NULLITY OF SECOND MARRIAGE, NO DEFENSE IN THE BIGAMY CASE.—A second marriage contracted by a man while the first marriage is not yet dissolved is illegal and void (Act 3613, section 29). Its nullity, however, is no defense to a criminal action for bigamy filed against him.
2. ID.; CIVIL ACTION FOR ANNULMENT OF SECOND MARRIAGE, NOT A DEFENSE IN THE BIGAMY CASE.—The filing, while the bigamy case is pending, of a civil action by the woman in the second marriage for its annulment by reason of force and intimidation upon her by the man, is not a bar or defense to the criminal action. The civil action does not decide that he entered the marriage against his will and consent, because the complaint therein does not allege that he was the victim of force and intimidation in the second marriage. It was he who used the force or intimidation and he may not use his own malfeasance to defeat the action based on his criminal act.
3. CRIMINAL PROCEDURE; PREJUDICIAL QUESTION, EXPLAINED.—A decision in such civil action is not essential before the criminal charge can be determined. It is, therefore, not a prejudicial

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<sup>1</sup> Entry of final judgment, March 12, 1954.

question. Prejudicial question has been defined to be that which arises in a case the resolution of which (question) is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal (10 Enciclopedia Juridica Española, p. 228). The prejudicial question must be determinative of the case before the court; this is its first element. Jurisdiction to try said question must be lodged in another tribunal; this is the second element. In an action for bigamy, for example, if the accused claims that the first marriage is null and void, and the right to decide such validity is vested in another tribunal, the civil action for nullity must first be decided before the action for bigamy can proceed; hence, the validity of the first marriage is a prejudicial question.

4. PLEADING AND PRACTICE; APPEALS; APPEALABLE ORDERS OR JUDGMENTS; INTERLOCUTORY ORDERS, NOT APPEALABLE.—An order denying a motion to dismiss is not a final judgment or order, and is therefore not appealable (Rule 118, sections 1 and 2).

APPEAL from an order of the Court of First Instance of of Cebu. Piccio, J.

The facts are stated in the opinion of the court.

*Amadeo D. Seno* for defendant and appellant.

*Assistant Solicitor General Francisco Carreon and Solicitor Ramon L. Avanceña* for plaintiff and appellee.

LABRADOR, J.:

The defendant in the above-entitled case is charged in the Court of First Instance of Cebu with the crime of bigamy, for having contracted a second marriage with one Efigenia C. Palomer on September 21, 1947, while his previous valid marriage with Martina Godinez was still subsisting and had not been dissolved. The information is dated May 22, 1951. On October 11, 1951, while the case was pending trial, Efigenia C. Palomer filed a civil action in the same Court of First Instance of Cebu against the defendant-appellant, alleging that the latter "by means of force, threats and intimidation of bodily harm, forced plaintiff to marry him", and praying that their marriage on September 21, 1947 be annulled (Annex A). Thereupon and on April 30, 1952, defendant-appellant filed a motion in the criminal case for bigamy, praying that the criminal charge be provisionally dismissed, on the ground that the civil action for annulment of the second marriage is a prejudicial question. The court denied this motion on the ground that the validity of the second marriage may be determined in the very criminal action for bigamy. Against this order this appeal has been presented to this court.

It is contended that as the marriage between the defendant-appellant and Efigenia C. Palomer is merely a voidable marriage, and not an absolutely void marriage, it can not be attacked in the criminal action and, therefore, it may not

be considered therein; consequently, that the civil action to annul the second marriage should first be decided and the criminal action, dismissed. It is not necessary to pass upon this question because we believe that the order of denial must be sustained on another ground.

Prejudicial question has been defined to be that which arises in a case, the resolution of which (question) is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal (Cuestión prejudicial, es la que surge en un pleito o causa, cuya resolución sean antecedente logico de la cuestión objeto del pleito o causa y cuyo conocimiento corresponda a los Tribunales de otro orden o jurisdicción.—X Enciclopedia Jurídica Española, p. 228). The prejudicial question must be determinative of the case before the court; this is its first element. Jurisdiction to try said question must be lodged in another tribunal; this is the second element. In an action for bigamy, for example, if the accused claims that the first marriage is null and void and the right to decide such validity is vested in another tribunal, the civil action for nullity must first be decided before the action for bigamy can proceed; hence, the validity of the first marriage is a prejudicial question.

There is no question that, if the allegations of the complaint, are true, the marriage contracted by defendant-appellant with Efigenia C. Palomer is illegal and void (Sec. 29, Act 3613 otherwise known as the Marriage Law). Its nullity, however, is no defense to the criminal action for bigamy filed against him. The supposed use of force and intimidation against the woman, Palomer, even if it were true, is not a bar or defense to said action. Palomer, were she the one charged with bigamy, could perhaps raise said force or intimidation as a defense, because she may not be considered as having freely and voluntarily committed the act if she was forced to the marriage by intimidation. But not the other party, who used the force or intimidation. The latter may not use his own malfeasance to defeat the action based on his criminal act.

It follows that the pendency of the civil action for the annulment of the marriage filed by Efigenia C. Palomer, is absolutely immaterial to the criminal action filed against defendant-appellant. This civil action does not decide that defendant-appellant did not enter the marriage against his will and consent, because the complaint does not allege that he was the victim of force and intimidation in the second marriage; it does not determine the existence of any of the elements of the charge of bigamy. A decision thereon is not essential to the determination of the criminal charge. It is, therefore, not a prejudicial question.



There is another reason for dismissing the appeal. The order appealed from is one denying a motion to dismiss and is not a final judgment. It is, therefore, not appealable (Rule 118, secs. 1 and 2).

The order appealed from is hereby affirmed, with costs against defendant-appellant. So ordered.

*Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.*

*Order affirmed.*

## DECISIONS OF THE COURT OF APPEALS

[No. 9776-R. March 26, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,  
vs. WONG SZU TUNG, defendant and appellant

1. CRIMINAL LAW; VIOLATION OF THE BULK SALES LAW; ACT No. 3952 PENAL IN NATURE.—Act No. 3952 is penal in nature and should be construed strictly against the State and liberally in favor of the accused; it should be applied with a view to cure the evil at which it is aimed, which is the defrauding of creditors by secret bulk sales.
2. ID.; ID.; ID.; FOUNDRY SHOP NOT COVERED BY THE LAW; CASE AT BAR.—The accused in the instant case acted against his will in selling the shop and the object of the sale was not covered by the provisions of the Bulk Sales Law. What was sold was the shop itself, together with the goodwill and credits, equipments, tools and machineries thereof, including a Dodge truck, which are not the stock of merchandise, goods, wares, provisions or materials in bulk, contemplated in section 3 of Act No. 3852. Undoubtedly, a “foundry shop” with its goodwill and credits, which does not sell merchandise, but whose main business is to manufacture iron works, or processes or casts metals (Webster’s New Int. Dict., 2nd ed.), is not included in the said law.

APPEAL from a judgment of the Court of First Instance of Manila. San Jose, J.

The facts are stated in the opinion of the court.

*Dominador L. Reyes* for defendant and appellant.

*First Solicitor General Ruperto Kapunan, Jr.* and *Solicitor Adolfo Brillantes* for plaintiff and appellee.

PAREDES, J.:

Accused Wong Szu Tung, a Chinaman, was the owner of the Kim Tay Seng Foundry Shop, located at No. 420, Rizal Extension, Grace Park, Caloocan, Rizal, built on the land of Santiago L. Ocampo. Accused was indebted to Ocampo for the rentals of the land in the sum of over ₱2,000 which he failed to pay, despite demands. Ocampo threatened to sue the accused in court; and upon the instruction of his lawyer, ordered the closing of the shop so that no one could get anything therefrom. And when one Lim Guan offered to buy it, Ocampo ordered his lawyer to prepare the deed of sale (Exhibit A), dated December 28, 1950, which the accused signed. The proceeds of the sale which was ₱2,500 paid by the buyer Lim Guan was received by Ocampo and applied the same for the payment of the rentals in arrears. It also appears that the accused was indebted to the Shurdut Mills Supply Co., Inc. in the amount

of ₱1,591.25; a complaint was filed to recover said amount on January, 1951, and judgment was obtained by said Company against the accused on April 4, 1951, handed down by the Municipal Court of Manila (Civil Case No. 14527); and that the accused had been dealing with said Company many times, and most of his purchases were invariably paid. When a representative of the Company went to the shop to demand payment of its account, he found out that the shop had already been sold to said Lim Guan, and its name changed to Occidental Foundry Shop. These are the uncontroverted facts.

The defense, while admitting practically these facts, alleged, through the testimony of Benedicto Samonte who was a witness to the execution of Exhibit A, that said accused was forced to sell the shop to Lim Guan, because of Ocampo's insistent demands for payment of the back rentals. Accused failed to testify, because he was then suffering from advanced pulmonary tuberculosis.

The trial court found the accused guilty of a violation of Section 3 of Commonwealth Act No. 3952, otherwise known as the Bulk Sales Law, and sentenced him to pay a fine of ₱300, with subsidiary imprisonment in case of insolvency, and to pay the costs. In convicting the accused, the trial court declared that the said accused willfully and voluntarily sold his shop, and that he received the purchase price thereof, without delivering to the vendee Lim Guan a written statement containing the names and addresses of his creditors and the amounts of indebtedness due and owing to them, as required by law.

The records fully show that the accused was pressed to sign the deed of sale by his creditor Ocampo. Ocampo was so insistent and aggressive in getting his money, that upon the presentation of a buyer, he (Ocampo) lost no time in having his lawyer prepare a deed of sale, Exhibit A, and told the accused to sign it. The accused, a simple foundryman and timorous by nature, had to sign it, just to give way to the wishes of his creditor Ocampo. With the threats of closing the shop and court action for eviction, we can readily see that accused was practically forced or duressed into signing the deed of sale. But, granting for a while that the accused was not duressed to sign the deed of sale, still he is not criminally liable for a violation of the Bulk Sales Law (Act No. 3952). Section 3 of this law provides:

"It shall be the duty of every person who shall sell, mortgage, transfer, or assign *any stock of goods, wares, merchandise, provisions or materials in bulk*, for cash or on credit, before receiving from the vendee, mortgagee, or his, or its agent or representative any part of the purchase price thereof, or any promissory note, memorandum, or other evidence therefor, *to deliver* to such vendee, mort-

gatee, or agent, or if the vendee, mortgagee, or agent be a corporation, then to the president, vice-president, treasurer, secretary or manager of said corporation, or, if such vendee or mortgagee be a partnership firm, then to a member thereafter provided, of the names and addresses of all creditors to whom said vendor or mortgagor may be indebted, together with the amount of indebtedness due or owing, or to become due or owing by said vendor or mortgagor to each of said creditors, which statement shall be verified by an oath to the following effect: \* \* \*." (*Italics ours.*)

Act No. 3952 is penal in nature and should be construed strictly against the State and liberally in favor of the accused; it should be applied with a view to cure the evil at which it is aimed, which is the defrauding of creditors by secret bulk sales. The sale in question was forced upon the accused by Ocampo, a creditor himself, who was benefited from the sale, to the detriment of the accused who did not even receive a single centavo out of the proceeds of said sale. With respect to the Shurdut Mills Supply Co., Inc., the complaining creditor, there would have been a technical violation of the law, were it not for the fact that the appellant acted against his will in selling the shop and of the further fact that the object of the sale was not covered by the provision of law alleged to have been infringed. What was sold was the shop itself, together with the goodwill, credits, equipments, tools and machineries thereof, including a Dodge truck, which are not the stock of merchandise, goods, wares, provisions or materials in bulk, contemplated in the aforequoted section 3 of Act No. 3952.

*"Meaning of 'merchandise'.*—Merchandise means something that is sold everyday, and is constantly going out of the store and being replaced by other goods. (*Boise Credit Men's Assoc. vs. Ellis*, 26 Ida. 438, 144 Pac. 6.) It must be construed to mean such things as are usually bought and sold in trade by merchants." (*Peoples' Sav. Bank vs. Van Allsburg*, 165 Mich. 524, 131 N.W. 101.)

*"Meaning of 'stock'.*—The common use of the term 'stock' when applied to goods in a mercantile house refers to those which are kept for sale." (*Albretcht vs. Cudihee*, 37 Wash. 206, 79 Pac. 628; *II Tolentino's Commercial Law*, 4th ed., pp. 1267-8.)

Undoubtedly, a "foundry shop", with its goodwill and credits, which does not sell merchandise, but whose main business is to manufacture iron works, or processes or casts metals (*Webster's New Int. Dict.*, 2nd ed.), is not included in the said Law.

We are of the opinion that the guilt of the appellant Wong Szu Tung has not been proven beyond reasonable doubt; consequently, the judgment appealed from is reversed, and the said appellant acquitted, with costs *de officio*. So ordered.

*Dizon and Natividad, JJ., concur.*

*Judgment reversed.*

[No. 11005-R. March 30, 1954]

AGUSTIN C. FABIAN and ANGELA F. FABIAN, petitioners and appellants, *vs.* NIEVES CAPISTRANO ET AL., oppositors and appellees.

1. SALE; TAX SALE; PRESCRIBED STEPS MUST BE FOLLOWED PUNCTILIOUSLY.—It has been held, with great propriety, that sales of the property for tax delinquency being in derogation of property rights and due process, the prescribed steps must be followed punctiliously and that exact and complete adherence to the statutes governing tax sales is imperatively necessary (Cooley, *The Law of Taxation*, 4th ed. Vol. 3, pp. 2725-2726).
2. ID.; ID.; SLIGHT DEVIATION FROM RULE FATAL.—A tax sale will be rendered ineffective and void if the notice of sale by publication erroneously describes the lot to be sold and the sale is made by an officer who is not designated by law for that purpose. "A deviation, however small, must be fatal because a rule of law cannot be made to fluctuate according to the degree or extent of its violations." (*The Law of Taxation, supra*, p. 2803).
3. ID.; ID.; REGISTRATION; TAX SALE BINDING ONLY FROM DATE OF REGISTRATION; SECTIONS 50 AND 77, ACT 496.—The law is to the effect that the tax sale of registered land should be registered. Section 77 of Act 496 expressly provides, among other things, that whenever a registered land is sold for taxes or for any assessment, any officer's return, or any deed, demand, certificate, or affidavit or any other instrument made in the course of proceedings to enforce such liens shall be filed with the Register of Deeds for the province where the land lies and registered in the registration book, and a memorandum made upon the proper certificate, in each case, as an adverse claim or incumbrance, and section 50 of the same Act 496 also expressly provides that the act of registration shall be the operative act to convey and affect the land. Consequently, the tax sale becomes binding on the property sold only from the date of its registration and the one-year period of redemption begins to run from said date. (*Metropolitan Water District vs. Reyes*, 74 Phil., 142-143.)

APPEAL from a judgment of the Court of First Instance of Manila. San Jose, *J.*

The facts are stated in the opinion of the court.

*D. H. Soriano* for petitioners and appellants.

*Carmelino G. Alvendia* and *Amando Calixto* for oppositors and appellees.

GUTIERREZ DAVID, *J.*:

This is an appeal filed by Agustin C. Fabian and Angela F. Fabian from an order of the Court of First Instance denying their petition.

A parcel of land containing 121.80 square meters situated at 209 Esguerra street, Tondo, Manila, and assessed at ₱690.00 is registered at lot No. 4-R block 3020 in the name of Candido Capistrano, both under Transfer Certificate of Title No. 62757 of the Register of Deeds of Manila (Exhibit "3") and under Assessment No. 1564 of the Office of

the City Assessor. The taxes on said property for the years 1948 and 1949 in the sum of ₱20.70 became delinquent,

In the September 28, October 5 and 12, 1949 issues of the "Philippines Herald", a notice of sale for October 29, 1949 carrying the following items was published, to wit:

1. Declared owner—Candido Capistrano.
2. Location of property—209 Esguerra, Tondo, Manila.
3. Lot number—4-K.
4. Block number—3020.
5. Kind of property—Land.
6. Area—121.80 square meters.
7. Assessed value—₱690.
8. Assessment Number—1564.

(Exhibit "1")

On October 29, 1949, as scheduled in the said Notice of Sale, the City Treasurer of Manila conducted the auction sale and awarded to the highest bidder, Angela F. Fabian, petitioner-appellant herein, *lot No. 4-R*, block 3020, Assessment No. 1564 of Manila, located at 209 Esguerra, Tondo, Manila, with an area of 121.80 square meters more or less, for the sum of ₱22.49 representing delinquent taxes, penalties and costs. Mrs. Fabian paid the said purchase price under Official Receipt No. 303649-V dated October 29, 1949. (Exhibit "A").

On September 9, 1950, after 8 months had elapsed since the date of the sale (October 29, 1949), the City Treasurer of Manila issued the corresponding certificate of sale (Exhibit "B") covering the lot in question in favor of Mrs. Angela F. Fabian.

On August 27, 1950 a Notice of Sold Properties (Exhibit "C") advising Candido Capistrano of the sale at public auction on October 29, 1949 of his lot No. 4-R, block 3020, Assessment No. 1564 of Manila, located at 209 Esguerra, Tondo, to Mrs. Angela F. Fabian, was allegedly mailed to him at 203 Esguerra, Tondo, Manila, according to a note reading "Mailed on Sun 8/27/50 a.m." on said Exhibit "C".

On October 18, 1951, the City Treasurer of Manila executed a final Deed of Sale (Exhibit "F") covering the said lot No. 4-R, block 3020, Assessment No. 1564 of Manila, located at 209 Esguerra, Tondo, Manila in favor of Mrs. Angela F. Fabian the registered owner thereof, Candido Capistrano, having failed to redeem the same within the statutory period of one year "which expired on October 29, 1950". (Exhibit "D").

On December 10, 1951, the certificate of sale (Exhibit "B") was annotated on Transfer Certificate of Title No. 62757 of Manila. (Exhibit "E").

A few days thereafter, the appellee, Nieves Capistrano, received from the Register of Deeds of Manila a notice that the property in question was sold at public auction



by the City Treasurer for non-payment of real estate taxes.

On February 6, 1952, petitioners-appellants filed their petition praying for the registration of the final deed of sale (Exhibit "F"), for the cancellation of Transfer Certificate of Title No. 62757 of Manila, covering the land in question in the name of Candido Capistrano, and for the issuance, in lieu thereof, of a new transfer certificate of title in the name of Angela F. Fabian.

On April 30, 1952, the heirs of the late Candido Capistrano—the registered owner of the lot in question—and Emilia Estrella, who both died on March 14, 1934 and February 10, 1935, respectively, filed an opposition to said petition alleging: that the tax sale of the property involved in the tax sale as appearing in Transfer Certificate of Title No. 62757 is described as lot No. 4-R, block No. 3020, while the land sold at public auction by the City Treasurer on October 29, 1949, as was published in the "Philippines Herald" on September 28, October 5, and 12, 1949 was lot No. 4-K, block 3020, it being a well-settled rule that defective description of property would make the tax sale null and void; that the tax sale conducted by the City Treasurer of Manila on October 29, 1949, for the enforcement of the collection of real estate taxes, penalties and costs, is contrary to the provisions of section 2498 of the Revised Administrative Code, as amended, and the same is therefore null and void; that the petitioner failed to register the tax certificate in the Register of Deeds of the City of Manila, in order that the same may be annotated in the Transfer Certificate of Title No. 62757, issued by the Register of Deeds of the City of Manila, Philippines, as an adverse claim; that had the petitioners registered the same on time or immediately after the tax sale, the oppositors could have had a chance to discover the proceedings taken on the tax sale and protect their rights; that such failure of the petitioners' amount to a constructive fraud, which sidetrack oppositors' right to redemption; that the petitioners' failure to register in the Register of Deeds the tax sale is an open violation of section 77 of Act 496; that the petitioners have registered the said tax sale on December 10, 1951, long after the legal period of redemption has expired.

After hearing both parties, the court below on November 18, 1952 issued the order now appealed from, with the following dispositive part:

"The petition, the opposition, their respective evidence, as well as the reply to the opposition have been considered. It appears that what was published in the Philippines Herald announcing the sale at public auction for nonpayment of taxes on October 29, 1949, among other properties, was lot 4-K and not 4-R, described in Transfer Certificate of Title No. 62757. It also appears that the certificate of sale of lot No. 4-R issued by the City Treasurer of Manila,

on September 9, 1951, was registered in the office of the Registered of Deeds only December 10, 1951. Under the law the delinquent taxpayer is entitled to be notified of the registration of the certificate of sale for the purpose of giving him an opportunity to exercise his right of redemption. In the present case no evidence that Candido Capistrano or his heirs had been notified either by the Register of Deeds of Manila or by the herein petitioners of such registration of the certificate of sale on December 10, 1951. This court considers such error committed in the letter of the lot and in non-notification substantial defects, sufficient grounds for the denial of the petition.

The herein oppositor, however, should not be relieved or exempted from paying the corresponding delinquent taxes on their lot No. 4-R described in said title and from delivering the duplicate of Certificate of Title No. 62757 to the Register of Deeds of Manila for the annotation thereon of the said certificate of sale.

In view of the foregoing considerations, this court hereby denies the petition and believing it unnecessary to determine on the merits of the other evidence of the parties, order the herein oppositors to pay before December 10, 1952, the corresponding delinquent taxes and surcharges of penalties to the Treasurer of the City of Manila and to deliver to the Register of Deeds of Manila the owner's duplicate of Transfer Certificate of Title No. 62757 for the annotation thereon of the above-mentioned certificate of sale, as appearing on the original of said title." (Appellants' brief, pp. 6-7.)

In this appeal the appealed order is assailed on the grounds that the lower court erred: (1) in holding that the Notice of Sale of lot No. 4R, block 3020, Assessment No. 1564 of Manila, located at 209 Esguerra, Tondo, Manila, published in the Philippines Herald on September 28, October 5 and 12, 1949 was substantially defective and a cause for denying petitioners-appellants' petition merely because the said lot, subject of this litigation, was designated in the said Notice of Sale as "4K", notwithstanding the fact that all other circumstances of the said lot were correctly indicated in the Notice of Sale; (2) in granting the oppositors-appellees the right to pay the delinquent taxes and surcharges due on the lot in litigation to the City Treasurer of Manila before December 10, 1952, because in so granting, the lower court, in effect, computed the one-year period of redemption belonging to the registered owner of the land in question from December 10, 1951 (date of registration of the corresponding Certificate of Sale) instead of from October 29, 1949 (date of sale) as expressly provided for by section 70 of Act 409, known as the Revised Charter of the City of Manila; (3) in holding that under the law the delinquent registered owner of the lot in litigation was entitled to be notified of the registration of the Certificate of Sale for the purpose of giving him an opportunity to exercise his right of redemption; (4) in not considering Exhibit "C" (Notice of Sold Properties) which was sent to Candido Capistrano on August 27, 1950 advising said Candido Capistrano of the fact of sale at the public auction on October 29, 1949 of his lot 4R, block 3020, Assessment No. 1564

of Manila, located at 209 Esguerra, Tondo, Manila, to Angela F. Fabian as charging the said Candido Capistrano and his representative with actual knowledge of that fact of sale of his said lot, which actual knowledge is equivalent to registration; and (5) in denying the petition of petitioners-appellants praying for the registration of the deeds of sale (Exhibit "F"), for the cancellation of Transfer Certificate of Title No. 627557 of Manila, covering the lot in litigation, and for the issuance, in lieu thereof, of a new Transfer Certificate of Title in the name of petitioner-appellant Angela F. Fabian.

After going over the records, we find that the court below committed none of the errors assigned. It has been held, with great propriety, that sales of property for tax delinquency being in derogation of property rights and due process, the prescribed steps must be followed punctiliously and that exact and complete adherence to the statutes governing tax sales is imperatively necessary. The main reasons for these rulings are:

"Tax sales are made exclusively under a statutory power. The power which the state confers to assess and levy taxes does not of itself include a power to sell lands in enforcing collection, but the power to sell must be expressly given. The officer who makes the sale sells something he does not own, and which he can have no authority to sell except as he is made the agent of the law for the purpose. But he is made such agent only by certain steps which are to precede his action, and which, under the law, are conditions to his authority. If these fail the power is never created. If one of them fails it is as fatal as if all failed. Defects in the conditions to a statutory authority cannot be aided by the courts; if they have not been observed the courts cannot dispense with them, and this bring into existence a power which the statute only permits when the conditions have been fully complied with. Neither, as a general rule, can the courts aid the defective execution of a statutory power; they may do this when the power has been created by the owner himself, and when such action would presumptively be in furtherance of his purpose in creating it; but a statutory power must be executed according to the statutory directions, and presumptively any other execution is opposed to the legislative will, instead of in furtherance of it." (Cooley, *The Law of Taxation*, 4th ed. Vol. 3, pp. 2725-2726.)

There are special reasons applicable to tax sales which the Supreme Court of Maine, U.S.A., in *Brown vs. Veazie*, 25 Me. 359, 362, summarizes as follows:

Sales of real estate for the nonpayment of taxes must be regarded in a great measure as an ex parte proceeding. The owner is to be deprived of his land thereby; and a series of acts preliminary to the sale are to be performed to authorize it on the part of the assessors and collector, to which his attention may never have been particularly called; and experience and observation render it notorious that the amount paid by purchasers as such sales is uniformly trifling in comparison with the value of the property sold."

The above cited rules have been adopted in this jurisdiction in a long line of decisions. (*Valencia vs. Jimenez*, 11 Phil., 492, 498-499; *Denoga vs. Insular Government*,

19 Phil., 261; Camo *vs.* Riosa Boyco, 29 Phil., 445; Government of the P. I. *vs.* Adriano, 41 Phil., 113; Bernardino *vs.* Arzobispo, G. R. No. L-1086, 46 Off. Gaz. No. 12, page 6030; Ramos V. Villaverde et al., *vs.* Ramos V. Forido, L-3655-56, promulgated April 28, 1951; Cortez *vs.* Ateneo de Manila (CA), 9587-R 49 Off. Gaz. No. 11, page 4910; Lucido *vs.* Isais, 43 Off. Gaz. No. 10, p. 4152; and Laico *vs.* Calupitan (CA), 47 Off. Gaz. No. 11, p. 5726.

Viewed in the light of the foregoing principles the tax sale in question has unquestionably been rendered ineffective and void by the facts that the notice of sale by publication described the lot to be sold as lot No. 4-K while the lot which was delinquent was lot No. 4-R and the sale was made by the City Treasurer of Manila and not by the officer designated by law for that purpose, who, in this case, is the City assessor and Collector of the City of Manila. (Secs. 53 and 69, Republic Act No. 409) And Cooley states: "A deviation, however small, must be fatal because a rule of law cannot be made to fluctuate according to the degree or extent of its violation." (The law of taxation, *supra*, p. 2803).

Contrary to the contention of appellants, the law is to the effect that the tax sale of registered land should be registered. Section 77 of Act 496 expressly provides, among other things, that whenever a registered land is sold for taxes or for any assessment, any officer's return, or any deed, demand, certificate, or affidavit of any other instrument made in the course of proceedings to enforce such liens shall be filed with the Register of Deeds for the province where the land lies and registered in the registration book, and a memorandum made upon the proper certificate, in each case, as an adverse claim or incumbrance, and section 50 of the same Act 496 also expressly provides that the act or registration shall be the operative act to convey and affect the land. Consequently, the tax sale becomes binding on the property sold only from the date of its registration and the one-year period of redemption begins to run from said date. (Metropolitan Water District *vs.* Reyes, 74 Phil., 142-143.)

Wherefore, the order appealed from is hereby affirmed with costs against the appellants.

*Rodas and Martinez, JJ., concur.*

*Judgment affirmed with costs.*

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[No. 8046-R. April 7, 1954]

LUCIA VICENCIO ET AL., plaintiffs and appellees, *vs.* MANUEL VICENCIO, defendant and appellant

1. ESTOPPEL; ESTOPPEL BY JUDGMENT; DISTINCTION BETWEEN ESTOPPEL BY JUDGMENT AND "RES ADJUDICATA".—Estoppel by judgment as known to Anglo-American jurisprudence, is different

from *res adjudicata* for in the former "a point which actually and directly in issue in a former suit, and was there judicially passed upon and determined by a domestic court of competent jurisdiction, cannot be again drawn in question in any future action between the same parties or their privies, *even when the causes of action in the two suits are wholly different.*" (*Peñalosa vs. Tuason*, 22 Phil., 303; *Chua vs. Del Rosario*, 57 Phil., 411.) Unlike in *res adjudicata*, in estoppel by judgment, it is enough that there is an identity of parties and subject-matter, no matter if the causes of action are completely distinct (*Lontok vs. Padua*, 42 Off. Gaz., 521).

2. "RES ADJUDICATA"; IDENTITY OF PARTIES SHOULD NOT BE TAKEN TOO LITERALLY; CASE AT BAR.—While the present plaintiffs are ten in number as compared to eight applicants in the aforesaid registration case, and the oppositors were seven therein and only one defendant now, still it cannot be said that there is no identity of parties. Identity of parties should not be taken too literally, otherwise a litigation could be renewed every now and then by the expedient of joining new parties (*San Diego vs. Cordova*, 70 Phil., 281).
3. ID.; IDENTITY OF SUBJECT-MATTER.—While in the registration case the subject matter is the whole land and in the present action only one-half thereof is involved, yet as long as the portion occupied by defendant remains part and parcel of the whole it cannot be said that it is different and distinct from the whole.
4. PLEADING AND PRACTICE; ILLEGAL DETAINER; MERE ALLEGATION OR OWNERSHIP IN COMPLAINT DOES NOT CHANGE ITS NATURE.—The mere allegation of ownership in a complaint for detainer does not change its nature. Section 4 of Rule 72 of the Rules of Court provides that "evidence of title to the land or building may be received solely for the purpose of determining the character and extent possession and damages for detention." Thus, Chief Justice Moran, citing a series of cases, stated "in considering this problems, the averments of the complaint and character of the relief sought are primarily to be consulted; but it would be a mistake to suppose that an action involves a question of title merely because the plaintiff may allege in the complaint that he is the owner of the land." (II Moran, Comments one Rules of Court, p. 296, 1952 Ed.)

APPEAL from a judgment of the Court of First Instance of Rizal. Gatmaitan, J.

The facts are stated in the opinion of the court.

*Marcelo M. Bobadilla* for defendant and appellant.

*San Juan, Africa, Yñiguez & Benedicto* for plaintiff and appellees.

PEÑA, J.:

On March 31, 1950, the Court of Appeals rendered decision in registration case CA-G. R. No. 3907-R, the pertinent portion of which is as follows—

"So it is reasonable to declare, as we declare, that the applicants have been in possession of the parcel of land in litigation since July 30, 1908."

The applicants referred to in the aforesaid decision are the same plaintiffs in the present action, while defendant

Manuel Vicencio was one of the oppositors in the aforesaid registration case. Despite the fact that the said decision of the Court of Appeals had already become final, Manuel Vicencio refused to vacate the promises occupied by him. Consequently, a complaint for unlawful detainer was filed against him in the Court of First Instance of Rizal. It was prayed therein that judgment be rendered—

1. Ordering the defendant to return immediately the possession of said premises in question to the plaintiffs;
2. Ordering the defendant to pay ₱30 per month, as rental for the use occupation of the land in question, commencing from June 1947, until possession thereof is actually returned to plaintiffs;
3. Ordering the defendant to pay the plaintiffs ₱500 as damages;
4. For costs and attorney's fees;
5. For such other relief, just and equitable in the promises.

On the other hand, the defendant in his amended answer containing specific denial, affirmative defenses and counterclaim, prayed that the complaint be dismissed; that plaintiffs be ordered to pay ₱500 as damages to the defendant; that defendant be declared the absolute owner of the land and all its improvements thereon.

After due trial, the lower court rendered decision, condemning defendant to vacate the promises in question; to pay plaintiffs the sum of ₱1 a month from July, 1950, until he finally vacate the promises plus the costs, and dismissing the counterclaim. From this judgment, defendant appeal and now maintains that the lower court erred—

1. In holding that the decision of the Honorable Court of Appeals in the referred land registration case is binding, conclusive and final in spite of the fact that both parties in the land case and in the present case for detainer are different, involving two different causes of action and while the subject matter in the land registration case involved the whole parcel but in the present action for detainer it involves only the portion occupied by Manuel Vicencio because Josefa Gloria who is occupying another portion of the land is not made party defendant;
2. In holding that the present action legally constitutes sufficient cause for detainer and completely disregarded the question of ownership; and
3. In rendering judgment in favor of the plaintiffs or at least in not dismissing the complaint when the preponderance of evidence is in favor of the defendant.

The main issue in this appeal is whether or not the finding of fact of the Court of Appeals in the said land registration case to the effect that the applicants therein (who are the present plaintiffs) have been in possession of the parcel of land in litigation since July 30, 1908, is now conclusive, binding and final. Counsel for appellant maintains that as there is no identity of parties, subject matter and causes of action there could not be *res adjudicata*. We do not disagree with this view. In the instant case, however, we have estoppel by judgment as known to Anglo-



American jurisprudence, which is different from *res adjudicata* for in the former "a point which was actually and directly in issue in a former suit, and was there judicially passed upon and determined by a domestic court of competent jurisdiction, cannot be again drawn in question in any future action between the same parties or their privies, even when the causes of action in the two suits are wholly different." (Peñalosa vs. Tuason, 22 Phil., 303; Chua Tan vs. Del Rosario, 57 Phil., 411.) Unlike in *res adjudicata*, in estoppel by judgment, it is enough that there is an identity of parties and subject matter, no matter if the causes of action are completely distinct (Lontock vs. Padua, 42 Off. Gaz., 521).

While the present plaintiffs are ten in number as compared to eight applicants in the aforesaid registration case, and the oppositors were seven therein and only one defendant now, still it cannot be said that there is no identity of parties. (Miguel Dordulaw and Primo Tongko were joined as plaintiffs for the purpose of assisting their respective spouses, and while Manuel Vicencio is the only defendant herein, (he was one of the oppositors in that registration case.) Identity of parties should not be taken too literally, otherwise a litigation could be renewed every now and then by the simple expedient of joining new parties (San Diego vs. Cordova, 70., Phil., 281). Moreover,

"By the phrase 'the same parties' we do not understand it to mean that all the parties plaintiff and defendant parties to the former action must be joined in the later action to render available the plea of the judgment in the first action as an estoppel in the subsequent action. Where the action is against a number of defendants and the merits have been litigated and adjudicated as to all, and the same plaintiff thereafter proceeds in a subsequent action against one of said defendants for identically the same cause of action then the latter action is between the same parties as those to the former in the sense that the plea of *res adjudicata* may with perfect legal propriety be set up, for as between the plaintiff and the party defendant to the later action the merits as to the same cause of action have been as definitely adjudicated as if such defendant were only the party defendant in the first action." (Quison Lumber Co. vs. Fairfield School Dict., 19 Cal. A 587, 594, 127, p. 349.)

Similarly, while in the registration case the subject matter is the whole land and in the present action only one-half thereof is involved, yet as long as the portion occupied by defendant Manuel Vicencio remains part and parcel of the whole, it cannot be said that it is different and distinct from the whole.

The mere allegation of ownership in a complaint for detainer does not change its nature. Section 4 of Rule of the Rules of Court provides that 'evidence of title to the land or building may be received solely for the purpose of determining the character and extent of possession and damages for detention.' Thus, Chief Justice Moran, citing a series of cases stated: "in considering this problem, the

averments of the complaint and character of the relief sought are primarily to be consulted: but it would be a mistake to suppose that an action involves a question of title merely because the plaintiff may allege in the complaint that he is the owner of the land." (II Moran, Comments on the Rules of Court, p. 296, 1952 34.)

As the finding of fact of the Court of Appeals relative to the possession of the plaintiffs, who were the applicants in the registration case, it is now conclusive, binding and final. We deem it unnecessary to discuss appellant's evidence in the present case, for it is substantially the same as that submitted in the former case.

Wherefore, the appealed judgment, being in accordance with law and the evidence, is hereby affirmed, with costs against appellant.

It is so ordered.

*Felix and Rodas, JJ., concur.*

*Judgment affirmed.*

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[G. R. No. 11462-R. April 7, 1954]

PIO M. PECO, ET AL., plaintiffs and appellees, *vs.* GREGORIA RAMOS, defendant and appellant

1. PLEADING AND PRACTICE; COURTS; TRIAL; PARTIES NOT GIVEN ALL OPPORTUNITY TO PROVE THEIR CASE.—While it is commendable for a trial judge to expedite cases in his court with "lightning" speed, yet it may not be conducive to the true administration of justice if the trial is not conscientiously conducted by giving the parties all the opportunity to prove their respective side of the case, free from officious and improper interference and without personal or slighting remarks. After all, courts of justice are established for the benefit of the litigants, and the people in general, and any deviation from that purpose would defeat the mission of said courts.
2. ID.; ID.; ID.; ID.; EQUITY; POWER OF APPELLATE COURT TO GRANT NEW TRIAL.—If we have to decide this case on appeal on the basis of the evidence adduced during the trial, wherein the defendant-appellant had not been given an ample opportunity to prove her side of the case, we can not do otherwise but affirm the decision. To do so, however, would be countenancing a procedure in the lower court which is not salutary but conducive to undermining the faith and confidence of the people in the courts of justice. Hence, this case should be remanded to the court of origin for new trial or further proceedings (section 2, Rule 53 of the Rules of Court), on the ground of equity.

APPEAL from a judgment of the Court of First Instance of Rizal. Arca, J.

The facts are stated in the opinion of the court.

*De Santos, Herrera & Delfino* for defendant and appellant.

*Juan Nabong* for plaintiff and appellee.

PECSON, J:

This is an appeal from the judgment of the Court of First Instance of Rizal ordering the partition of the land described in the complaint among the heirs of Catalina Avila, deceased.

The uncontroverted facts are as follows: That Dionisio Ramos and Catalina Avila are husband and wife, who died many years ago in Pasig, Rizal, leaving no will; that at the time of their death, they were survived by their children, namely, Celedonio Ramos, Agapita Ramos, Alejandra Ramos, Leoncia Ramos and Gregoria Ramos; that Celedonia Ramos was married to Felix Mendoza, both deceased, and they left as their only surviving child Maria Mendoza married to Mariano Peco, both deceased, and they are survived by the plaintiffs-appellees, Pio M. Peco and Anacleto M. Peco; that Agapita Ramos married to Victor Reyes, both deceased, are survived by their children, namely, Emiliano Reyes married to Dolores de los Reyes, and Romana Reyes married to Eusebio Samson, plaintiffs-appellees; that Alejandra Ramos married to Catalino Andres, both deceased, left as surviving children, who are also plaintiffs-appellees, Teodocia Andres married to Perfecto Evangelista and Godencia Andres married to Andres Delgado; that Leoncia Ramos married to Juan San Agustin, both deceased, are survived by Andres San Agustin married to Josefa Asuncion and Jose San Agustin married to Felisa Laqui-San Agustin; that Andres San Agustin died in 1939, leaving the minor children, Luz, Alfredo, Bienvenido and Andres, Jr., all surnamed San Agustin who are represented by their mother Josefa Asuncion as their guardian; that Gregoria Ramos, defendant-appellant, is single with an acknowledged natural daughter, Agapita Ramos; and that the property in question is in the possession of Gregoria Ramos.

It is the contention of the plaintiffs-appellees that the land in question belonged to their grandmother, Catalina Avila. The claim of the plaintiffs-appellees is based mainly on the testimony of Maria Guevarra that the land formerly belonged to her mother Dominga Samson from whom her parents, Lucerio Guevarra and Juliana Samson inherited it. Upon the death of her parents, her brother, Francisco Guevarra, sold said land to Catalina Avila because he needed money to defray the burial expenses of her grandmother. The land has been declared for purposes of taxation in the name of Catalina Avila under tax declaration No. 8500 (Exhibit B).

Upon the other hand, the defendant-appellant, Gregoria Ramos, contends that the land belongs to her because she bought it from Raymundo Moral for ₱85 in 1898. However, she was not allowed to substantiate her claim during the trial on account of the following incidents:

"ATTY. LEGASPI:

Q. I show this document which I ask it to be marked as Exhibit "1",—(The said document was then marked)—can you tell what this document was?

"THE COURT:

You ask the witness first if she knows how to read.

"ATTY. LEGASPI:

Q. Do you know how to read?—A. No, sir.

Q. Do you know how to write?—A. No, sir.

"THE COURT:

Q. When you bought this land from Raymundo Moral were you the one who prepared the document?—A. Yes, sir.

"ATTY. LEGASPI:

Q. When did you prepare that document?—A. That was long time ago.

"THE COURT:

Q. Is this the document that you prepared when you bought that land?—A. My eyes are weak. I can not read it now.

"ATTY. LEGASPI:

I reserve the right to present a witness to identify it.

"THE COURT:

This document is useless.

"ATTY. LEGASPI:

Q. When did your parents die?—A. Fifty years ago.

Q. When your parents died, did you take possession of this land in question?—A. Yes, sir.

Q. Did you pay the land taxes for that land?—A. Yes, sir.

Q. Since your parents died?—A. Yes, sir.

Q. Do you remember when you were disturbed by the plaintiffs in the possession of that land?—

"ATTY. NABONG:

Objection

"THE COURT:

The court will not allow that question. She does not understand the questions. You better present another witness. (There being no further questions, the witness was excused and she withdrew from the witness stand.)

"THE COURT:

The court dispensed with this witness in view of the fact that in the manner she testified, she could hardly walk, she could not see, and she could not understand the questions propounded to her. The court will allow the defendant to present another witness."

While the next witness, Angelina Ramos, was testifying, the following incident also transpired:

"Direct examination by Atty. Legaspi:

\* \* \* \* \*

Q. Do you know whether Raymundo Moral owned a real property in Santolan, Pasig, Rizal?—A. Yes, sir.

Q. Do you know whether this Raymundo Moral sold his property to someone in Pasig?

"THE COURT:

That is a leading question. The Court allowed you to ask leading questions to the other witness because she is very old. But the present witness is not.

"ATTY. LEGASPI:

Q. How long have you been living in the property?—A. My mother stayed there for a long time already.

Q. Have you had any occasion to pay the real estate tax for this property?—

"ATTY. NABONG:

Objection because the other witness—

"THE COURT:

Objection sustained.

"THE COURT:

(To Atty. Legaspi) Are you the one who prepared this answer?

"ATTY. LEGASPI:

Yes.

"THE COURT:

Your answer admits all the allegations of the complaint, except paragraphs 4 and 12.

"ATTY. LEGASPI:

My theory is that inasmuch as you stated in open court that the document is useless, I had to prove that.

"THE COURT:

But they do not question that.

"ATTY. LEGASPI:

May I ask for the postponement of the hearing of this case?

"THE COURT:

Why, I offered a postponement and you refused. Motion denied.

"ATTY. LEGASPI:

Q. Are you married?

"THE COURT:

The witness testified that she is 41 years old, married, and house-keeper. Now you are asking the witness if she is married or single.

"ATTY. LEGASPI:

If your Honor please, inasmuch as I prepared myself of my arguments in the document executed by Raymundo Moral, and in view of the fact that this Honorable Court has stated that the document is useless, I find myself a little lost, and in order that I be given a little time to prepare my defense, I honestly and sincerely ask for a postponement.

"THE COURT:

Motion denied on the ground that this case was called for hearing on December 19, 1952, and it was set for hearing today by mutual agreement of the parties. The attorney for the defendant who prepared the answer in this case had plenty of time to prepare his defense. What the court noticed is not lack of preparation but lack of knowledge of law.

"ATTY. LEGASPI:

In which case, the defendant is entitled to another counsel. I request that I be given a chance to have myself substituted by another counsel.

"THE COURT:

When did you finish the bar examination?

"ATTY. LEGASPI:

In 1950.

"THE COURT:

That was two years ago. That is sufficient time to acquire knowledge of the law.

"ATTY. LEGASPI:

I find myself a little bit embarrassed inasmuch as I prepared only on the basis of the document which has been declared useless.

"THE COURT:

Motion denied. Continue.

"ATTY. LEGASPI:

Q. Did you have occasion to accompany your mother in the payment of real estate taxes?

"ATTY. NABONG:

It is immaterial.

"THE COURT:

Objection sustained. It is immaterial and it is leading.

"ATTY. LEGASPI:

That's all.

"ATTY. NABONG:

No cross-examination.

(There being no further questions, the witness was excused from the witness stand and she withdrew.)

"THE COURT:

Any other witness?

"ATTY. LEGASPI:

No more.

"THE COURT:

Case submitted.

"ATTY. NABONG:

I should like to present rebuttal evidence regarding Raymundo Moral.

"THE COURT:

There is no need. Case submitted."

Under the circumstances, the counsel for the defendant-appellant could not help but lose his bearing and he became really helpless during the trial. He even forgot, in his embarrassment, to offer his documentary evidence (Exhibit 1), so that it might be attached to the record, on account of the observation of his Honor that it was useless. Because of the apparent impatience of His Honor, the defendant-appellant could not have her full day in court. While it is commendable for a trial Judge to expedite cases in his court with "lightning" speed, yet it may not be conducive to the true administration of justice if the trial is not conscientiously conducted by giving the parties all the opportunity to prove their respective side of the case, free from officious and improper interference and without personal or slighting remarks. After all, courts of justice are established for the benefit of the litigants, and the people in general, and any devia-



tion from that purpose would defeat the mission of said courts.

If we have to decide this case on appeal on the basis of the evidence adduced during the trial, wherein the defendant-appellant had not been given an ample opportunity to prove her side of the case, we can not do otherwise but affirm the decision. To do so, however, would be countenancing a procedure in the lower court which is not salutary but conducive to undermining the faith and confidence of the people in the courts of justice.

It is our considered opinion that this case should be remanded to the court of origin for new trial or further proceedings (section 2, Rule 53 of the Rules of Court), on the ground of equity and not on the grounds stated in the second assignment of error. Chief Justice Moran in his comments on the Rules of Court, Vol. 1, p. 992, 1952 edition, has said: "It is true that, as stated elsewhere, mistakes of counsel are not grounds for new trial. But under the above section, the appellate court has ample power to grant new trial on such equitable grounds as the peculiar circumstances of each case may warrant." We feel constrained in this case to revoke the decision of the Court *a quo* in view of the above considerations, lest our refusal to take action on what we believe is right should be "inconsistent with substantial justice." (section 3, Rule 53, Rules of Court.)

Wherefore, the decision is reversed and set aside, and the records are hereby remanded to the court of origin for new trial, without pronouncement as to costs.

It is so ordered.

*Reyes, Pres. J., and Ocampo, J., concur.*

*Judgment reversed and set aside; records remanded to the court of origin for new trial without pronouncement as to costs.*

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[No. 9113-R. April 8, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,  
*vs.* CONSUELO A. VDA. DE AGONCILLO, defendant and  
appellant.

1. CRIMINAL LAW; SELLING OR PLEDGING MORTGAGED PROPERTY; ARTICLE 319, REVISED PENAL CODE.—Paragraph 2 of Article 319 of the Revised Penal Code clearly states that the mortgage—of the mortgage-debtor who sells or pledges a mortgaged property without the consent of the mortgagee—should be made *under the terms of the Chattel Mortgage Law*. The phrase contained therein to the effect that the consent of the mortgagee should appear on the back of the mortgage and *noted on the record thereof in the office of the register of deeds* implies that the mortgage must be recorded as required by the Chattel Mortgage Law. It was held that in offenses

consisting of selling or disposing of mortgaged property it is essential that there be a valid and subsisting mortgage. (14 C. J. S. 908; *Wyrick vs. Commonwealth*, 54 S. W. 2d, 629, 246 Ky. 127).

2. ID.; ID.; ID.; CHATTEL MORTGAGE LAW.—In the light of the statutory requirements of the Chattel Mortgage Law (Act No. 1508), in this jurisdiction, the chattel mortgage in question is obviously not valid, because it does not appear in a notarial document (*Mahoney vs. Tuason*, 39 Phil., 959); it is not accompanied by the indispensable affidavit of good faith made by the parties to the effect that the mortgage is made for the purpose of securing the obligation therein expressed and not for other purposes and that the same is a just and valid obligation and not one entered into for the purpose of fraud (section 5, Act 1508; *Giberson vs. Jureidini*, 44 Phil., 216); and it is not recorded contrary to the express requirement of section 4 of Act No. 1508 for its validity. Hence it cannot be the basis of a criminal complaint under Article 319 of the Revised Penal Code.
3. ID.; ID.; ID.; TRANSACTIONS CONTEMPLATED IN ARTICLE 319, PARAGRAPH 2, REVISED PENAL CODE.—The contention that only "sale" and "pledge" and *not* the second mortgage of mortgaged properties are contemplated in Article 319, paragraph 2 of the Revised Penal Code is untenable. In the controlling Spanish text approved by the Legislature (*People vs. Manaba*, 58 Phil., 665) of said article, the word "hipoteca" and not "prenda" or "pledge" is used.

APPEAL from a judgment of the Court of First Instance of Manila. Panlilio, J.

The facts are stated in the opinion of the court.

*Jorge E. De Leon* for defendant and appellant.

*Assistant Solicitor General Lucas Lacson* and *Solicitor Antonio Consing* for plaintiff and appellee.

GUTIÉRREZ DAVID, J.:

This appeal seeks here the reversal of the judgment of the Court of First Instance of Manila finding defendant-appellant, Consuelo Agrava Vda. de Agoncillo, guilty of violation of Article 319 of the Revised Penal Code and sentencing her to a penalty of 2 months and 1 day of *arresto mayor* and to pay the costs.

It appears that sometime on September 13, 1947, Antonia A. Alfonso (daughter of appellant) secured a loan from the complainant in this case, Isabel F. de Gerónimo, in the amount of ₱5,000. To guarantee or secure the payment of the said loan, appellant executed on the same date a deed of chattel mortgage on her house, jeep, furniture, etc., in favor of complainant Gerónimo which deed was neither notarized nor recorded in the office of the Register of Deeds of Quezon City, where the properties are located. (Exhibit "A") No affidavit of good faith as required by Section 5 of Act 1508 was appended to the deed of mortgage. According to this deed, the obligation secured thereby is the following:

*"Manila, 13 de Septiembre, 1947"*

Yo, Consuelo Vda. de Agoncillo, mayor de edad y residente en esta Ciudad de Manila, por el presente, declaro y hago constar:

Que en virtud del pagaré otorgado por mi hija, Antonia A. Alfonso, por la cantidad de (P5,000.00), moneda filipina, por la cual se obliga a pagar dicha cantidad a la Sra. Isabel F. Gerónimo el 30 de Septiembre de 1947 y garantizado por el cheque No. A 53977 del People's Bank & Co., por el presente reconozco dicha obligación de mi hija y no comprometo a efectuar el pago de dicha cantidad de CINCO MIL PESOS (P5,000.00), moneda filipina, dentro de los 10 días, en el caso de que mi hija no llegue a efectuarlo en dicha fecha.

(Fdo.) CONSUELO VDA. DE AGONCILLO  
*2 Bulucan, La Loma, Quezon City*".

On March 8, 1948, the appellant executed a real estate mortgage (Exhibit "D") in favor of the Rehabilitation Finance Corporation covering some parcels of land including the lot on which the house, previously mortgaged to the complainant under the chattel mortgage (Exhibit "A"), is located. In executing the said real estate mortgage the appellant did not secure the consent of the complainant, as mortgagee.

At the time of the execution of the chattel mortgage (Exhibit "A") a check drawn by Mrs. Antonia A. Alfonso, daughter of the appellant, in the sum of P5,000 and post-dated September 30, 1947 (Exhibit "B") was delivered to the complainant, but this check, upon presentation to the drawee bank, the People's Bank and Trust Co., was dishonored for insufficiency of funds. (Exhibit "C").

On the other hand, the evidence for the defense discloses that between Antonia A. Alfonso, daughter of appellant, and the complainant, there had been several business transactions consisting of loans given by the latter to the former—which were already liquidated before December 2, 1947—their last transaction being that of a loan of P6,900, payable on or before December 31, 1947, and appearing on the promissory note executed by Antonia A. Alfonso on December 2, 1947 (Exhibit "1") which reads:

*"December 2, 1947"*

P6,900.00

For value received I promise to pay Mrs. Luis Gerónimo the sum of SIX THOUSAND NINE HUNDRED PESOS (P6,900.00) on or before December 31, 1947 at the office of Atty. Gil M. Gotangco or at his residence at 1537-A Félix Huertas, Manila.

In the event court action becomes necessary to enforce payment of this promissory note, I agree to pay twenty percent (20%) of the value of this note as attorney's fees.

(Sgd.) ANTONIA A. ALFONSO

WITNESSES:

(Sgd.) G. G. DE FELICIO  
(Sgd.) GIL M. COTIANGCO".

In order to avoid that her previous obligations be charged again, Antonia A. Alfonso demanded from complainant a

sort of a quit-claim and the latter accordingly executed the certification, Exhibit "2", reading:

807 Folgueras, Manila  
December 2, 1947

TO WHOM IT MAY CONCERN:

This is to certify that the only account of Mrs. Antonia A. Alfonso with me is the amount stated in the promissory note the executed in my favor on December 2, 1947.

(Sgd.) ISABEL F. GERÓNIMO"

The appealed judgment is assailed on the ground that the trial court committed the following errors: (1) in not taking into consideration the fact that the chattel mortgage (Exhibit "A") is not notarized nor registered, and, therefore, cannot be the basis of a criminal complaint; (2) in not holding that the second mortgage executed by defendant-appellant in favor of the Rehabilitation Finance Corporation (Exhibit "D") is neither a sale nor a pledge in the contemplation of Article 319, paragraph 2, of the Revised Penal Code, and, therefore, can not be the basis of a criminal complaint under said article; (3) in not taking into consideration the fact that the chattel mortgage (Exhibit "A") was already released by virtue of the two receipts (Exhibits "1" and "2") and in denying the reception or admission of said receipts as exculpatory evidence; and (4) in finding the appellant guilty of the crime charged.

After a close scrutiny of the record it is our view that the appeal is meritorious. Appellant herein was charged with, and convicted of, a violation of paragraph 2, Article 319 of the Revised Penal Code which provides that:

"Any mortgagor who shall sell or pledge personal property already pledged, or any part thereof, under the terms of the Chattel Mortgage Law, without the consent of the mortgagee written on the back of the mortgage and noted on the record thereof in the office of the register of deeds of the province where such property is located."

This penal provision clearly states that mortgage—of the mortgage-debtor who sells or pledges a mortgaged property without the consent of the mortgagee—should be made *under the terms of the Chattel Mortgage Law*. The phrase contained therein to the effect that the consent of the mortgagee should appear on the back of the mortgage and *noted on the record thereof in the office of the register of deeds* implies that the mortgage must be recorded as required by the Chattel Mortgage Law. It was held that in offenses consisting of selling or disposing of mortgaged property it is essential that there be a valid and subsisting mortgage. (14 C. J. S. 908; Wyrick vs. Commonwealth, 54 S. W. 2d, 629, 246 Ky. 127) And in the light of the statutory requirements of the Chattel Mortgage Law (Act No. 1508), in this jurisdiction, the

chattel mortgage in question (Exhibit "A") is obviously not valid, because it does not appear in a notarial document (Mahoney *vs.* Tuazon, 39 Phil., 959); it is not accompanied by the indispensable affidavit of good faith made by the parties to the effect that the mortgage is made for the purpose of securing the obligation therein expressed and not for other purposes and that the same is a just and valid obligation and not one entered into for the purpose of fraud (Section 5, Act 1508; Giberson *vs.* Jureidini, 44 Phil., 216); and it is not recorded contrary to the express requirement of section 4 of Act No. 1508 for its validity. Hence it cannot be the basis of a criminal complaint under Article 319 of the Revised Penal Code and much less of a conviction thereunder.

Moreover, by the uncontradicted evidence for the defense the loan of ₱5,000 received by Antonia A. Alfonso and secured by the chattel mortgage in question (Exhibit "A") seems to have been liquidated, or at least novated, as part of various transactions had between Antonia A. Alfonso and the complainant after September 13, 1947 so much so that on December 2, 1947 the only obligation of Antonia A. Alfonso to the complainant was a loan of ₱6,900 payable on or before December 31, 1947, as mentioned in the promissory note, Exhibit "1", and thus certified to by the complainant in Exhibit "2".

Since the obligation secured by the mortgage in question was of Antonia A. Alfonso the evidence tending to show the payment or novation of said obligation such as Exhibits "1" and "2" is relevant and material and the trial court erred in not admitting said exhibits.

There is nothing to the contention that only "sale" and "pledge" and *not* the second mortgage of mortgaged properties are contemplated in Article 319, paragraph 2 of the Revised Penal Code. In the Spanish text of the Revised Penal Code, which is controlling as this was the text approved by the Legislature (People *vs.* Manaba, 58 Phil., 665), the word "hipoteca" and not "prenda" or "pledge" is used. Thus the provision is worded therein as follows:

"El deudor hipotecario que vendiere o hipotecare todo o parte de un mueble ya hipotecado según los términos de la mencionada ley sin consentimiento del acreedor hipotecario, escrito al dorso de la hipoteca y anotado en el registro correspondiente de la Oficina del Registrador de Títulos de la provincia donde dicho mueble estuviere situado."

Wherefore, the appealed judgment is hereby reversed and the appellant acquitted and ordered released from the custody of the law, with costs *de officio*.

*Dizon and Martinez, JJ., concur.*

*Judgment reversed; appellant acquitted.*

[No. 9760-R. April 8, 1954]

JUAN O. PELAIS and CEFERINA PEREZ-PELAIS, plaintiffs and appellants, *vs.* HIPOLITO FRIAS, defendant and appellee.

SALE; "PACTO DE RETRO" SALE; PRICE OF REPURCHASE, NOT CHANGEABLE BY FUTURE AGREEMENT.—A contract couched in the following terms: "that it is understood that I (Hipólito Frías) can buy the said property within 90 days *after they are paid in full at a price agreeable to both parties.*" does not become a *pacto de retro sale* by the mere agreement of the parties. The vendor was simply given a preference to buy the property at a price to be agreed, if he desires to repurchase the same within said period of 90 days. The price that the vendor has to pay for the property was to be the subject of an agreement, and the amount paid by the vendees was not the price agreed for the repurchase. In a *pacto de retro sale* what the vendor *a retro* shall pay to the vendee *a retro* is exactly what the latter paid to the former, and is no longer the subject of a future agreement.

APPEAL from a judgment of the Court of First Instance of Rizal. Caluag, J.

The facts are stated in the opinion of the court.

*Enrique Rimando, Eduardo Bananal and Maximo R. Dumpit* for plaintiffs and appellants.

*Benjamis Relova* for defendant and appellee.

PEÑA, J.:

On August 4, 1935, one Isabel Wise Dudley sold to Hipolito Frias for P240 payable in eighty monthly installments of P3 with interest at 10 per cent per annum, subdivision lot No. 25 of the Prospect Grove Subdivision situated in the San Juan del Monte, Rizal (Exhibit "H"). On August 16, 1938, the same vendor sold to the same vendee another parcel of land known as lot No. 26, subdivision of lot No. 61 for the same price and under the same terms and conditions (Exhibit "I"). It was stated in the corresponding instruments that the buyer could not sell, lease or encumber these lands without first obtaining the consent of the seller. Accordingly, on June 22, 1943, Hipolito Frías addressed the following letter to Mrs. Isabel Wise Dudley:

*"Manila, 43—22 Junio*

Mrs. Isabel Wise Dudley  
Tamarind Lane, Prospect Grove  
San Juan del Monte  
Greater Manila

Dear Madam:

ATTENTION. Miss H. Saavedra, Secretary Attorney-in-fact for Mrs. Dudley

It is stipulated in my contract with you, that I, the undersigned present purchaser of lots Nos. 25 and 26 cannot sell, transfer, lease, encumber said contracts without your consent in writing. *With*



*these terms in mind, I, the undersigned respectfully request that I be permitted to make, appoint, cede, and transfer all my rights to Mr. Juan O. Pelais as the new purchaser, and who therefore will assume all future obligations in your favors.*

Your consent and approval of this request is therefore requested and for Mr. Juan O. Pelais to become the new purchaser instead of me, and that Mr. Juan O. Pelais will make all future payments to you directly in his name.

An early reply will be appreciated and please certify on the right hand margin of this letter your approval and consent.

Very Truly Yours,

(Sgd.) HIPOLITO FRÍAS"

(EXHIBIT "J")

As on June 23 of the same year, the request of Hipólito Frías was granted by Mrs. Dudley, a contract was entered into by and between the former and Juan O. Pelais, whereby, in consideration of ₱400, he sold, ceded, transferred and conveyed unto said Juan O. Pelais, the buildings and all other improvements existing on lots Nos. 25 and 26, Tamarind Lane, Prospect Grove, San Juan del Monte, and also surrendered to Mr. Pelais all papers, contracts referring to said two lots in the name of Mrs. Dudley. It was "further agreed that in selling these improvements and the transferring of ownership to Mr. Pelais of the said two lots Nos. 25 and 26, I, Hipólito Frías, may stay and live peacefully in the premises at the option of Mr. Pelais, (Exhibit "G").

In conformity with the understanding reached by Hipólito Frías and Juan O. Pelais, Miss H. Saavedra, the attorney-in-fact of Mrs. Dudley, wrote the following—"Transferred to Mr. Juan O. Pelais at the request of purchaser and consent of seller as per letter dated June 22-43" on the bottom of the contracts to sell (Exhibit "H" & "I"). Thus, Pelais assumed the payment of the balance of the purchase price of the two lots to Mrs. Dudley who, upon full payment thereof, executed on *March 15, 1948*, through her attorney-in-fact, Hildegarda Saavedra, a deed of sale (Exhibit "B") selling unto Ceferina Pérez Pelais, married to Juan O. Pelais, the aforementioned Lots Secs. 25 and 26. Consequently, on *March 22, 1948*, Transfer Certificate of Title No. 8053 covering these two lots was issued by the Register of Deeds of Rizal to Ceferina Pérez-Pelais (Exhibit "A"), who also declared these parcels of lands in her name for taxation purposes (Exhibit "D").

As Hipolito have been occupying the two lots together with the improvements thereon, Juan O. Pelais and Ceferina Pérez-Pelais, in the exercise of their proprietary rights, demanded from him in November, 1945, the corresponding rentals therefor beginning December, 1945, but Hipólito refused to pay, claiming that he was the owner thereof. Owing to Hipólito's failure to heed another demand to vacate the premises and to turn over their possession to

the spouses Juan O. Pelais and Ceferina Pérez, the latter on April 20, 1950, filed a complaint against the former praying the Court of First Instance of Rizal to declare—

“the plaintiffs as the real and absolute owners of the two (2) parcels of land, together with all improvements thereon, described in paragraph II of the complaint; that the defendant be ordered to vacate the premises and turn over the possession thereof to the plaintiffs, and also to pay to the latter damages in the sum of P480.00 a year since December, 1943, up to the time delivery of possession is made, plus P1,200.00 for attorney's fees, and costs; and that any other and further relief be granted which this Honorable Court may deem just and equitable.”

On the other hand, defendant Hipólito Frías, in his answer with special defense and cross-claim, prayed for judgment in the following manner—

1. That the complaint of the plaintiffs be dismissed with costs against them;
2. That the alleged contract of sale, marked Appendix “A” of the complaint, be declared a simple mortgage and that the plaintiffs be required to accept the redemption price being offered by the defendant;
3. That Transfer Certificate of Title No. 8053 in the Office of the Register of Deeds of the Province of Rizal be ordered cancelled, and that the defendant be declared the true and lawful owner of the two parcels of land described therein;
4. That the plaintiffs be ordered to pay the amount of P1,500 by way of damages and attorney's fees.

Defendant further prays for costs and such other relief and remedies as may be just and equitable in the premises.”

After due trial, the lower court rendered judgment, the dispositive portion of which reads as follows—

“In view of the foregoing, judgment is hereby rendered in favor of the defendant, and the Court hereby orders and declares that—

(1) Exhibit G. which purports to be a deed of sale with a right to repurchase, is a contract of loan with security; and

(2) The plaintiff to accept from the defendant the sum of P307.70, which is the equivalent in Philippine Currency of the P400 Japanese War Notes secured by the defendant as a loan, in accordance with the Ballantine schedule, and the sum of P240 which the plaintiff has paid to the attorney-in-fact of the vendor, Mrs. Dudley, to complete the payment of the two lots in question. Upon receipt of the above amounts, the plaintiff is ordered to reconvey to the defendant the property described in the complaint and covered by transfer certificate of Title No. 8053 of the Register of Deeds of Rizal, free from all liens and encumbrances, particularly that mortgage executed by the plaintiff and his wife on August 4, 1948 for P1,400 in favor of the Philippine National Bank, which plaintiff is hereby ordered to pay.

“With pronouncement as to costs.”

Not satisfied with the aforesaid judgment, plaintiffs come now before Us and ask for the reversal thereof, for damages in the amount of P480 a year from December, 1945, up to the time when possession is delivered and for attorney's

fees in the sum of P1,200.00 and costs, on the grounds that the lower court erred—

1. In holding that the contract entered into by and between the parties on June 23, 1943, as shown by Exhibit "G", was a contract of loan with security, and not a sale; and

2. In ordering the palintiffs to reconvey to the defendant the property described in the complaint and covered by Transfer Certificate of Title No. 8053 of the Register of Deeds of Rizal, free from all liens and encumbrances, upon the receipt from the defendant of the sum of P307.70, which is the supposed equivalent in Philippine Currency of the P400 Japanese war notes mentioned as consideration in Exhibit "G", and the sum of P240 which the plaintiffs paid to the attorney-in-fact of the vendor, Mrs. Dudley, to complete the payment of the lots in question.

Contrary to the pronouncement of the trial court, Exhibit "G" is not a contract of loan with security, but one sale. To appreciate fully the instrument, the same is reproduced hereunder—

"Deed of sale of the improvements on lots 25 and 26 and the transferring of ownership (as purchaser) of the said two lots in favor of Mrs. Dudley to Mr. Juan O. Pelais

KNOW ALL MEN BY THESE PRESENTS THAT:

I, Hipólito Frías, Filipino, of legal age, residing at 50 Miranda Street, San Juan, Manila, for and in consideration of the sum of Four hundred pesos (P400.00), Philippine currency, paid to me in full by Juan O. Pelais, Filipino, of legal age, married to Ceferina Pérez, residing at 849-D Misericordia, Manila, receipt whereof is hereby acknowledged, do hereby sell, cede, transfer and convey unto said Juan O. Pelais, his heirs, executors, administrators and assigns, the building and all other improvements existing on lots Nos. 25 and 26, Tamarind Lane, Prospect Grove, San Juan del Monte, and I hereby surrender to Mr. Pelais all papers, contracts referring to the said two lots in the name of Mrs. Dudley, hereto attached and made a part hereof;

It is further agreed upon that *in selling these improvements and the transferring of ownership to Mr. Pelais of the said two lots Nos. 25 and 26*, I Hipólito Frías, may stay and live peacefully in the premises *at the option of Mr. Pelais*, subject to the following conditions:

\* \* \* \* \*

It is further agreed that I can buy the said properties within 90 days after they are paid in full *at a price agreeable to both parties; \* \* \**

From the explicit and unequivocal terms of the aforequoted document there is not a single iota to indicate that it was executed for the security of a loan allegedly obtained by Hipólito Frías from the spouses Juan O. Pelais and Ceferina Pérez. According to Article 1281 of the old Civil Code, "if the terms of the contract are clear and leave no doubt as to the intention of the contracting parties, the literal sense of its wording shall be followed". However, Hipólito Frías asserts that it was not his intention to part with his property, but only to secure a loan in the amount of P400 in Japanese military notes obtained by him on

June 23, 1943, from the plaintiffs and that being illiterate, knowing only to sign his name, he relied on the representations of the former that Exhibit "G" contained what they had agreed upon, that is, to execute a mortgage over the properties for the security of a loan of ₱400. According to the defendant, being in bad need of money to carry out his business of buy and sell, he approached his friend and *compadre*, plaintiff Juan O. Pelais, for a loan which the latter at first refused to extend, for the former did not readily offer any security. But when, according to the defendant, he offered the two lots in question as security, his *compadre* acceded. As a matter of fact, defendant further declared, that out of the loan of ₱400, only ₱334 was handed to him, the rest in the amount of ₱66 was retained by Pelais as interest. To convince Us that defendant was duped in the transaction, he also declared that it was plaintiff Pelais who prepared Exhibit "G" and brought the same to defendant's house for his signature which he did, believing earnestly that his friend and *compadre* will not fool him nor take advantage of his ignorance. And this is not all, defendant furthermore added, for Juan Pelais required the execution of a mortgage over the properties, to turn over all the receipts evidencing payments made by defendant to Mrs. Dudley on account of the purchase price of the two lots.

The pretension of defendant cannot, however, prevail over the clear terms of Exhibit "G" which was duly acknowledged as his free act and deed after the notary public explained its contents in Tagalog (t. s. n., p. 50). In this jurisdiction, it is now settled that public instrument are presumed valid and genuine unless the contrary is shown by clear and convincing evidence (*Asido vs. De Guzman*, 37 Phil., 652).

Aside from the unmistakable terms of Exhibit "G", we have also in the record the aforementioned Exhibit "J", a letter addressed by Hipólito Frías to Mrs. Dudley wherein his intention to sell all his rights in the two lots was made known. And Miss Saavedra, the attorney-in-fact of Mrs. Dudley and who is considered as a disinterested party testified, thus—

Q. The defendant here testified that when the plaintiff Pelais was trying to secure title covering these two lots, the defendant Frías went to see you, and I believe Judge Antonio Quirino also intervened, to advise you not to take any further step in connection with these two lots until the pending question between Pelais and Frías was finally settled and disposed of, is that correct?—A. They want to see me about those lots and I told them I cannot do anything because they were already transferred to Mr. Pelais and that I had nothing to do in the contract executed by Mr. Frías in favor of Mr. Pelais. I had nothing more to do because in fact they have renounced whatever rights they have over these lots in favor of Mr. Pelais who was to assume payment.

Q. Were you notified by Mr. Frías or Mr. Pelais of the transfer of whatever rights or interest Mr. Frías had over these two lots?—A. Yes, in fact they went to my house to sign the papers.

Q. See Exhibit “J” and tell the Court if you have seen it before. A. Yes, that is why I signed.

Q. During the negotiation of the transfer of these lots by Mr. Frías in favor of Mr. Pelais, did you have a chance to talk to Mr. Frías?—A. Yes, sir, in fact they were in my home together.

Q. You, personally, did not explain it to him?—A. He came to me telling that M. Pelais will take over the lots because he cannot resume payment, and so I told him it should be noted in the Contract and with his consent it could be done.

Q. The understanding was that Mr. Pelais would be the one to resume and continue paying the installments due which have not been paid yet in consideration of the lots?—A. Yes, and all the rights thereto. (t. s. n., pp. 81-82.)

Therefore, and since the defendant was nor coerced or fraudulently made to sign the deed of sale (Exhibit “G”), which is a complement of Exhibit “J”, for it was duly acknowledged before a notary public, We cannot entertain the plea of vendor Hipólito Frías that he did not know its contents. An individual who parts with his property by means of a public instrument, which does not appear to have been executed irregularly, is presumed to have understood its contents, for it is bounden duty before parting with his property to have its contents explained to him if he does not understand it. The notary public before whom he acknowledged and ratified the contract would always be willing to explain its contents before affixing his hand and seal to it. Even in the extreme case that Hipólito Frías did not bother himself to ask either the notary public or the instrumental witnesses to explain to him the contents of the document he freely what he had freely acknowledged in writing.

Could it not be easily gleaned from the very admission of Hipólito Frías that upon the execution of Exhibit “G” he stopped paying for the lots in question (t. s. n., p. 70), from the statement of plaintiffs that they continued paying by installments the balance until the entire purchase price was paid, and from the issuance of the certificate of title for the two lots in favor of Ceferina Pérez-Pelais, that the transaction entered into by and between said Hipólito and the plaintiffs was one of sale? The answer is obvious.

The fact that defendant, who occupied the premises, agreed to pay the real estate taxes does not negative plaintiffs’ ownership over the lots in dispute, and such agreement is not violative of any provision of law or moral. Similarly, the circumstance that Hipólito Frías remained in possession of the property is not also an indication that he simply mortgaged the same to plaintiffs for there is nothing unusual in that agreement (*Lim vs. Calaguas et al*, 45 Off. Gaz., p. 3394), specially if he was to pay the real estate taxes. In the case of *Lichauco vs. Berenguer*, 20 Phil., 12, affirmed in *Tolentino et al vs.*

Gonzales Sy Chiam, 50 Phil., 558, it was said; "that a contract of sale with *pacto de retro* cannot be construed as a mortgage just because the vendor continued in possession of the property as leasee."

The price paid was not grossly inadequate. The selling price in installments of the two lots is 480. As of June 23, 1943, when Exhibit "G" was executed, Hipólito Frías had paid to Mrs. Dudley on account of the two lots only about ₱200. The assessed value of the house is ₱250 which when added to ₱200 the result would be ₱450. Comparing this amount with ₱400 paid by plaintiffs to Frías, certainly the latter is fair and reasonable. The present market value of ₱4,800 for the two lots could not be criterion in determining the inadequacy of the purchase price of ₱400 paid in 1943, the former being still a contingent circumstance then.

Neither could we condemn the plaintiffs to allow the defendant to repurchase the property, for the contract Exhibit "G" does not become a *pacto de retro* sale by the mere agreement of the parties couched in the following terms: "that it is understood that I (Hipólito Frías) can buy the said property *within 90 days after they are paid in full at a price agreeable to both parties.*" Defendant Hipólito Frías was simply given a preference to buy the property at price to be *agreed*, if he desired to repurchase the same *within* said period of 90 days. The price that Hipólito Frías has to pay for the two lots was to be the subject of an agreement, and the amount of ₱400.00 paid by the spouses Juan O. Pelais and Ceferina Pérez was not the price agreed for the repurchase. In a *pacto de retro* sale what the vendor *a retro* shall pay to the vendee *a retro* is exactly what the latter paid to the former, and is no longer the subject of a future agreement as it was stipulated in the contract (Exhibit "G").

As the plaintiffs have not assailed the decision of the trial court, by assignment of error, for the latter's failure to adjudicate them damages and attorney's fees, we cannot discuss the merits of their prayer on these points.

Wherefore, the judgment appealed from being contrary to law and the evidence is hereby reversed. The transaction entered into by and between the parties on June 23, 1943, is hereby declared as one of sale, and not of mortgage or of loan with security. The plaintiffs being the true and absolute owners of said Lots 25 and 26 and of all the improvements thereon, the defendant is hereby ordered to vacate the same and to deliver the possession thereof to said plaintiffs. With costs against the defendant-appellee.

It is so ordered.

*Felix and Rodas, JJ., concur.*

*Judgment reversed.*



[G. R. No. 10693-R. April 10, 1954]

LAND SETTLEMENT AND DEVELOPMENT CORPORATION, plaintiff and appellee, *vs.* EMILIO C. GASTÓN, Jr., defendant and appellant.

1. PLEADING AND PRACTICE; ANSWER; ALLEGATIONS NOT SPECIFICALLY DENIED DEEMED ADMITTED; EXCEPTION; SECTION 8, RULE 9, RULES OF COURT.—Section 8, Rule 9 of the Rules of Court expressly *excepts* admission, even if not specifically denied, of any material averment in the complaint which refers to the amount of damage.
2. ID.; JUDGMENT ON THE PLEADINGS; ADMISSION OF MATERIAL ALLEGATIONS OF ADVERSE PARTY'S PLEADINGS, REQUISITES.—Under Section 10 of Rule 35 of the Rules of Court the admission of the material allegations of an adverse party's pleading, for the purpose of rendering judgment without hearing, must be indubitable and not subject to question that may be raised at a hearing.

APPEAL from a judgment of the Court of First Instance of Manila. Ibañez, *J.*

The facts are stated in the opinion of the court.

*Jesus Paredes* for defendant and appellant.

*Juan C. Antonio* for plaintiff and appellee.

FELIX, *J.*:

Defendant Emilio C. Gastón, Jr. brings this case to us on appeal from a judgment on the pleadings rendered by the Court of First Instance of Manila sentencing him to pay the Land Settlement and Development Corporation the sum of ₱4,608.18, with 4 per cent interest compounded from the time the said amount became due and payable, according to the contract Annex A, until it is fully paid, with costs.

It appears from the record that on October 11, 1946, the defendant purchased in this City of Manila from the Agricultural Machinery and Equipment Corporation (AMEC) on installment basis and under a contract of sale with chattel mortgage dated the same day and duly registered in the Office of the Register of Deeds of the City of Manila (Annex 6) two tractors described thus:

"Two (2) (SPB); FLC-8171; Eng-X-223; 23; tractor crawler 46-60 DBHP make and model unsepecified 78-8112.000-460.

VSD No. 8175

Serial Nos. 5R 2476

Serial Nos. 5R 2331

Amec No. 36

Sp. UIX 12642

OXR 12619"

for the sum of ₱6,144.24 payable as follows: ₱1,536.06 upon the signing of the contract and ₱4,608.18 in three equal installments, the first to be due on October 11, 1947 and the remaining installments on October 11 of every year thereafter until the full purchase price shall have been paid, it being stipulated that any amount remaining un-

paid shall draw interests at the rate of 4 per cent per annum which was to be compounded upon failure to pay the installments due in accordance with the promissory note executed by the purchaser on October 11, 1946 (Annex B).

According to the plaintiff, the defendant paid the sum of ₱1,536.06 upon the signing of the contract (Annex A) but he failed to pay any other amount on said purchase, so on August 14, 1952, plaintiff instituted this case praying the court to render judgment ordering the defendant:

1. To pay the plaintiff the amount of ₱4,608.18, plus interests due thereon at the rate of 4% per annum compounded as stipulated in paragraph 3 of the contract of sale with chattel mortgage and the promissory note Annexes A and B, respectively, from October 11, 1946, until the date of the filing of this complaint, and thereafter the legal rate of interest until the entire obligation is fully paid;

2. To pay reasonable attorney's fee;

2. To pay reasonable attorney's fee;

Plaintiff prays for such other reliefs and remedies as this Honorable Court may deem just and equitable in the premises.

On September 5, 1952, the defendant answered the complaint with special defenses, specifically denying, among other things, "that he has neglected, failed and refused to pay the balance claimed in the complaint to his party creditor specified in the promissory note appended in the complaint", and challenged the right of the Land Settlement and Development Corporation to bring an action against him in the present case, inasmuch as it is not a party to the contract, the non-fulfillment of which is the basis of this litigation. Hence the defendant prayed the Court that the case be dismissed and defendant absolved from the complaint, with costs on the plaintiff.

In view of this answer, on September 11, 1952, plaintiff filed its motion for judgment on the pleadings, and after the parties were heard on this motion, the court sustained the view of the plaintiff and rendered on October 17, 1952, decision against the defendant, as aforementioned. From said decision the defendant appealed and in this instance his counsel maintains that the lower court erred:

1. In holding that the Land Settlement and Development Corporation has legal capacity to sue the defendant-appellant; and

2. In rendering a judgment on the pleadings.

With regard to the capacity of the plaintiff to institute this case, the lower court held the following:

"The Agricultural Machinery and Equipment Corporation was created by Commonwealth Act No. 694, approved October 15, 1945 (Vol. 41, Off. Gaz., p. 745).

Republic Act No. 51, otherwise known as the Reorganization Act of 1949, authorized the President of the Philippines to reorganize the different Departments, Bureaus and Offices of the National Government, including government-owned or controlled corporations.

Pursuant to Republic Act No. 51, the President of the Philippines issued Executive Order No. 93, series of 1949, converting

the Agricultural Machinery and Equipment Corporation into a Department of National Development Company.

Republic Act No. 422, otherwise known as the Reorganization Act of 1950, approved January 6, 1950, authorized the President of the Philippines to reorganize the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government, including the corporations owned and controlled by it (46 Off. Gaz., p. 16).

On October 23, 1950, the President of the Philippines issued Executive Order No. 355, creating the Land Settlement and Development Corporation and dissolving the National Land Settlement Administration, the Rice and Corn Production Administration, and the Machinery and Equipment Department of the National Development Company (46 Off. Gaz., p. 4671).

Section 13 of the aforementioned Executive Order No. 355, series of 1950, provides as follows:

"SEC. 13. The personnel, records, properties, equipment, assets, rights, choses in action, obligations, liabilities and contracts of the National Land Settlement Administration, the Rice and Corn Production Administration and the Machinery and Equipment Department of the National Development Company are hereby transferred to, vested in, and assumed by the LASEDECO, and all their businesses and affairs shall be liquidated, assumed and contained by the LASEDECO, *Provided, etc.*"

It is, therefore, clear, as maintained by the lower court, that according to section 1 of the aforementioned Executive Order No. 355, series of 1950, the present plaintiff was created a public corporation under the name of the Land Settlement and Development Corporation which, in short, is known as the "LASEDECO", and that under the aforementioned laws and executive orders the plaintiff Land Settlement and Development Corporation has succeeded the erstwhile Agricultural Machinery and Equipment Corporation. Consequently, plaintiff has legal capacity to sue the defendant for the collection of the amount stated in the complaint. We find, therefore, that the first assignment of error is entirely devoid of merit.

Anent defendant's contention that the lower court erred in rendering judgment on the pleadings, Rule 35 of the Rules of Court provides the following:

"SEC. 10. *Judgment on the pleadings.*—Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may on motion of that party, direct judgment on such pleading, except in actions for annulment of marriage or divorce wherein the material facts alleged in the complaint shall always be proved."

Chief Justice Moran in his Comments on the Rules of Court, 1952 edition, Vol. I, p. 713, says the following:

"When the defendant neither denies nor admits the material allegations of the complaint, judgment on the pleadings is proper (*Alemanys vs. Sweeny*, 3 Phil., 114), but where the defendant's answer tenders an issue, judgment on the pleadings should not be rendered, (*Ongsin vs. Riarte*, 46 Off. Gaz., No. 1, p. 67), and when

the defendant admits all allegations of the complaint, the admission is a sufficient ground for judgment. *One who prays for judgment on the pleadings without offering proof as to the truth of his own allegations, and without giving the opposing party an opportunity to introduce evidence, must be understood to admit the truth of all the material and relevant allegations of the opposing party, and to rest his motion for judgment on those allegations taken together with such of his own as are admitted in the pleadings.*" [Bauerman vs. Casas, 10 Phil., 386., Evangelista vs. de la Rosa et al., 76 Phil., 115; Tanchico vs. Ramos, 48 Off. Gaz., (1) 654].

In the case at bar one of the issues tendered is the allegation in the answer "that the defendant has not neglected, nor failed nor refused to pay the alleged obligation", a question of fact in controversy which should have been established by evidence to be submitted at the hearing. Counsel for appellee, however, states that "material averments in the complaint, *other than those as to the amount of damage*, shall be deemed admitted when not specifically denied (Sec. 8, Rule 9 of the Rules of Court) and that on the question of specific denial, the Supreme Court ruled that "a denial does not become specific merely because it is qualified by that word, but because it specifies the allegations that are not admitted, setting forth, if practicable, the matters relied upon to support the denial" (Decanay vs. Lucero, 76 Phil., 139). We find, however, that Section 8, Rule 9 of the Rules of Court expressly *excepts* admission, even if not specifically denied, of any material averment in the complaint which refers to the amount of damage, and although the sum of ₱4,608.18 may not be properly termed as damages, yet it is the amount of an alleged obligation which is demanded, plus interests and attorney's fees from the defendant who denied having neglected, failed or refused to pay the same. Anyway, we hold that under Section 10 of Rule 35 of the Rules of Court the admission of the material allegations of an adverse party's pleading, for the purpose of rendering judgment without hearing, must be indubitable and not subject to question that may be raised at a hearing.

For the reasons stated, we hold that it was error on the part of the lower court to render judgment on the pleadings in this case depriving the defendant of his day in court and of his right to establish the *fact* that he has not neglected, failed or refused to pay the obligation involved in this litigation.

Wherefore, the decision appealed from is hereby set aside and the case remanded to the lower court for further proceedings. Without pronouncement as to costs.

It is so ordered.

Rodas and Peña, JJ., concur.

*Judgment set aside; case remanded to the lower court for further proceedings, without pronouncement as to costs.*

[No. 10818-R. April 12, 1954]

THE WORLD FIRE & MARINE INSURANCE CO., plaintiff and appellant, *vs.* MACONDRAY & CO., INC. and BARBER LINES, INC., and MANILA TERMINAL CO., defendants, MACONDRAY & CO., INC., defendant and appellee.

1. EVIDENCE; COMMON CARRIER; BURDEN OF PROOF TO ESTABLISH SATISFACTORY DISCHARGE OF GOODS COVERED BY BILL OF LADING; CASE AT BAR.—It is true that a common carrier has the burden of proof to establish discharge in full and in good order of the goods covered by the bill of lading. But, in the instant case, the burden of proof was shifted from the carrier, for the simple reason that, as found by the marine surveyors, the case in question was landed on the pier where it was pilfered while awaiting delivery.
2. *Id.*; *Id.*; PRESUMPTION OF REGULARITY; CASE AT BAR.—Speaking of “the presumption of regularity”, which is claimed by both parties, it is but just and equitable that the same should be first enjoyed by the carrier, for the goods were taken on board in good order, and, for this reason, it should be presumed that they were carried in transit and landed in the same condition as when they were shipped. And if the Manila Terminal Co., Inc., found the case empty, it should be presumed that it was emptied in its possession and custody, and not when the case was on board the vessel. We could not allow the *arraastre* operators to pass the buck to the carrier, for the case was not in the latter’s possession when the case was found broken and empty.

APPEAL from a judgment of the Court of First Instance of Manila. *Montesa, J.*

The facts are stated in the opinion of the court.

*Juan T. Chuidian* for plaintiff and appellant.

*Ross, Selph, Carrascoso & Janda* for defendant and appellee.

PEÑA, J.:

The China Bazar, which is doing business in Manila, ordered in 1946 from the Manufactures’ Trading Corporation of New York a big quantity of fountain pens and lighters valued at \$2,103.51. Accordingly, on February 5, 1946, the order was filled up by the company as evidenced by invoice (Exhibit “B”). The articles were placed in a case which was shipped on board the vessel “*SS Samson*,” operated by the Barber Steamship Lines, Inc. (Exhibit “A”). The cargo was insured with the World Fire and Marine Insurance Co. (Exhibit “C”). The consignee received from the China Banking Corporation the bill of lading, the invoice and the insurance policy in due time, and upon arrival of the vessel on which the cargo was loaded, the same documents were turned over to I. Tionloc, broker of China Bazar, for the purpose of securing a clearance and delivery of the cargo from the Bureau of Customs. When the broker called at this Bureau to claim delivery of the cargo, he discovered

that the contents of the case were missing. So he reported the loss to the consignee who referred the matter to C. B. Nelson & Co., marine surveyors. A survey was made and a report was duly submitted (Exhibit "1"). According to the report, the case, which contained fountain pens and lighters, was landed from the vessel in apparent good condition, but the same was found on the pier broken, without straps, and all its contents missing. It was the opinion of C. B. Nelson & Co., that the loss was due to *pilferage on pier while the cargo was awaiting delivery*.

Thus, a claim was filed with the Manila Terminal Co., Inc., which was the operator of the government *arrears* service. The claim was denied on the ground that their tally sheets show that the case in question was empty when discharged from the vessel. Another claim was then filed with Macondray & Co., Inc., being the agents of the Barber Steamship Lines, Inc., which on July 30, 1946, declined said claim, inviting the attention of the China Bazar to the report of C. B. Nelson & Co. Consequently, another claim was filed with Ker & Co. Ltd., as representatives of the World Fire and Marine Insurance Co. for payment of the insurance of the lost cargo, valued at ₱4,725 which was duly paid to the China Bazar in full settlement of its claim under Policy No. OC-29989. By virtue of such payment the World Fire & Marine Insurance Co. was subrogated to all the rights of recovery which the consignee is entitled.

As repeated demands of the World Fire and Marine Insurance Co. were not accepted by the Macondray & Co., Inc., and the Manila Terminal Co., a complaint was filed in the Court of First Instance of Manila by the insurance company praying for judgment against the defendants Macondray & Co., Inc., and/or Barber Steamship Lines, Inc., jointly and solidarily, or, in the alternative, against the Manila Terminal Co., Inc., for the amount of \$2,103.51, or its equivalent in Philippine currency, with legal interest thereon from the date of filing of the complaint, and costs.

Answering the complaint, the Manila Terminal Co., Inc., claimed that the case covered by the bill of lading No. 822 was delivered to the consignee empty of its contents since the same was discharged from the carrying vessel in the same condition, for which reason it refused to acknowledge responsibility for the loss of the missing cargo or to pay for its value. On its part, defendant Macondray & Co., Inc., denied being the agent of the Barber Steamship Lines in Manila, admitting, however, that the *SS Samson* took on board at New York, N. Y., for shipment to Manila the consignment of cargo mentioned in paragraph 5 of the complaint and covered by bill of lading No. 882. Regarding the missing contents this defendants alleges that the same was landed in good condition at the port after the arrival



of the vessel in Manila, and, for this reason, it was relieved of responsibility therefor pursuant to the terms of the bill of lading. The Barber Steamship Lines in its answer denied that it was operating *SS Samson* at the time the cargo was lost and that Macondray & Co., Inc., is its agent in Manila, for the truth is that it was merely acting as agent in New York for the shipowner and has no agent in Manila. By way of special defense it alleged that the court lacks jurisdiction over its person being a foreign corporation not doing business in the Philippines; and that at any rate the cost of action against the carrier, including this defendant, has prescribed by the lapse of the one year period to bring suit as stipulated in the bill of lading and provided by the Carriage of goods by Sea Act of 1936 (Com. Act No. 65).

After due trial, the lower court rendered decision, the dispositive portion of which reads as follows—

"In view of the foregoing considerations, the Court finds that the defendant Macondray & Co., acting as agents of the defendants Barber Steamship Lines, are not responsible for the loss of the cargo in question, and that the same had been lost under the responsibility of the defendant Manila Terminal Co. Considering, however, that the case had already been settled amicably between the plaintiff and the defendant Manila Terminal Co., Inc., the Court has no alternative but to dismiss, as it hereby dismisses, the complaint against the remaining defendants for insufficiency of evidence, without pronouncement as to costs."

Not agreeable with the aforesaid decision, plaintiff filed on August 21, 1952, a motion for reconsideration and/or new trial which, upon opposition of defendants Macondray & Co., Inc., and Barber Steamship Lines, Inc., was denied on December 20, 1952. Consequently, an appeal was taken by the plaintiff to this Court where it now maintains that the court *a quo* erred—

1. In failing to hold that appellee, as a common carrier, had the burden of proof to establish discharge in full and in good order of the case of fountain pens and lighters covered by bill of lading No. 822 (Exhibit "A");
2. In failing to hold appellee and/or Barber Steamship Lines, Inc. responsible for the loss of the shipment in question;
3. In holding that appellant failed to lay the proper basis for the introduction of secondary evidence, represented by Exhibit "H", and in failing to give due weight to said Exhibit; and
4. In finding appellant and not appellee guilty of suppression of evidence.

We agree with counsel for appellant that a common carrier has the burden of proof to establish discharge in full and in good order of the case of fountain pens and lighters covered by bill of lading No. 822 (Exhibit "A"). But, in the instant case, the burden of proof was shifted from the carrier, for the simple reason that, as found by the marine surveyors, the case in question was landed on the pier where it was pilfered while awaiting delivery (Exhibit "1"). Upon the evidence on record we have no doubt that the case was unloaded from the vessel in good order and the loss

of its contents was no longer due to the negligence of the carrier, but rather due to the negligence of the *arrastre* operators. In the light of the opinion rendered by the marine surveyors, it should have been the Manila Terminal Co., Inc., that must have established by satisfactory evidence that the case was already empty when landed from the vessel to the pier. And the amicable settlement reached by the plaintiff and the Manila Terminal Co., is an implied admission of the latter that the contents of the case in question were lost in its custody.

There is distinction between the *Inchausti Steamship Co. vs. Dexter & Unson*, 41 Phil., 289, cited by plaintiff, and the instant case, for in the former the goods *arrived at their place of destination in bad order*, while in the latter there is no showing that the goods were already in bad order when landed. On the contrary, the Marine surveyors upon examination of the container were of the opinion that its contents were pilfered in the pier. Similarly, there is no parallel between the case of *Keller vs. Ellerman*, 38 Phil., 514, and the present one, for in that case "there is no slightest intimation that the plaintiff had received the cases", while in the instant case, the record is replete with evidence that the case was landed from the vessel and received by the *arrastre* operators.

Speaking of "the presumption of regularity", which is claimed by both parties, it is but just and equitable that the same should be first enjoyed by the carrier, for the goods were taken on board in good order, and, for this reason, it should be presumed that they were carried in transit and landed in the same condition as when they were shipped. And if the Manila Terminal Co., Inc., found the case empty, it should be presumed that it was emptied in its possession and custody, and not when the case was on board the vessel. We could not allow the *arrastre* operators to pass the buck to the carrier, for the case was not in the latter's possession when the case was found broken and empty.

As the plaintiff and the Manila Terminal Co., Inc., had reached an amicable settlement on this matter, the former could very well withheld its tally sheets, necessary, pertinent and material in this case, and the court had to rely on the statement of the attorney of the Manila Terminal Co., Inc., that they are no longer available. We could not defeat the ends of justice by the withdrawal from the scene of a party after it came to an understanding with plaintiff which, for having been left alone in the fight, should have used its utmost efforts to secure from its tally the best and conclusive evidence, i. e., the tally sheets. Whether or not the lower court erred in its holding that the plaintiff failed to lay the proper basis for the introduction of secondary evidence is of no moment to us. What is paramount to us in this appeal is the apparent neglect of, which amounts

to suppression by, the plaintiff of securing from the Manila Terminal Co., Inc., the tally sheets in question to show in all sincerity and in good faith that the case in question was landed broken and empty in order to overcome the presumption that the carrier had regularly performed its duty.

As the second and fourth assignment of errors are mere corollaries of the first and third, We do not deem it necessary to discuss the same.

Wherefore, the judgment appealed from is hereby affirmed, with costs against appellant.

It is so ordered.

*Felix and Rodas, JJ., concur.*

*Judgment affirmed.*

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[No. 7849-R. April 13, 1954]

EDUARDO AGUIRRE, plaintiff and appellant, *vs.* JOSE PENILLA AND SOLEDAD GARRIDO, defendants and appellees

1. SALE; "PACTO DE RETRO" SALE HELD EQUITABLE MORTGAGE.—Where under a contract of sale *a retro*, the supposed vendor remains in possession after the sale, during the period of redemption and even after its expiration, without any lease agreement, and the alleged vendee admits that the land was given to him "en prenda" (as security) to guarantee the payment of certain obligations of the alleged vendor contracted before the execution of the sale *a retro*, the trial Court commits no error in holding such sale to be in reality an equitable mortgage.
2. ID.; "PACTO DE RETRO" SALE, ITS ESSENCE.—It is of the essence of a contract of sale with *pacto de retro* that the legal title to the property is immediately transferred to the vendee, subject to the vendor's right to redeem, so that the vendee would naturally take possession of the property conveyed after the execution of the contract. It is for this reason that it has been uniformly held, and the new Civil Code now expressly provides [Article 1602 (2)], that where in a contract of sale with *pacto de retro*, the vendor remains in possession as lessee or otherwise, the contract shall be presumed to be an equitable mortgage; for the retention by the vendor of the possession of the property is inconsistent with the vendee's acquisition of the right of ownership under a true sale subject only to the vendor's right to redeem, and discloses in the alleged vendee a lack of interest in the property that belies the truthfulness of the sale *a retro*.

APPEAL from a judgment of the Court of First Instance of Iloilo. Ibañez, J.

The facts are stated in the opinion of the court.

*Simeon A. Barranco* for plaintiff and appellant.

*Basilio Sorioso* for defendant and appellee.

REYES, J. B. L., Pres. J.:

Plaintiff Eduardo Aguirre takes this appeal from the decision of the Court of First Instance of Iloilo in Civil Case No. 1292 of that court declaring the deed of sale with *pacto*

*de retro* Exhibit "B" a mere contract of mortgage. Originally submitted to the First Division of this court, it was transferred to the third division to accelerate its disposal.

It appears that defendant-appellee Jose Penilla inherited from his mother Alejandra Cordero a portion of lot No. 972 of the Cadastral Survey of Cabatuan, Iloilo, of approximately 153 square meters in area. Alejandra Cordero in turn purchased said land from one Manuel Montinola by virtue of the deed of sale Exhibit A, which was duly annotated on the original certificate of title covering lot 972 (Exhibit C). Jose Penilla and his family have lived on this portion of lot 972 up to the present time, with the exception of the occupation years, when they evacuated to barrio Topol, Cabatuan, Iloilo, where they stayed with the plaintiff-appellant Eduardo Aguirre until liberation early in 1945.

While staying with plaintiff Aguirre during the period of their evacuation, Jose Penilla borrowed from plaintiff different sums of money at different times totalling ₱200, plus five bultos of palay (equivalent to 10 cavanese, legal measure); and it was agreed between Aguirre and Penilla that the latter would secure the loans by a "prenda" on his residential land in Cabatuan.

After the war, i.e., on October 26, 1946, defendant Jose Penilla executed in favor of plaintiff Eduardo Aguirre a deed of sale *con pacto de retro* of that portion of lot No. 972 that he inherited from his mother, for the consideration of ₱505 (including the value of 5 bultos of palay), his right of repurchase to expire on May 31, 1947 (Exhibit B). Penilla, however, retained possession of the land. The period for redemption expired without Penilla's making a repurchase. A year after the expiration of the period for redemption, Eduardo Aguirre filed action against Jose Penilla and his wife Soledad Garrido for unlawful detainer in the Justice of the Peace of Cabatuan. Judgment was rendered against the defendant spouses, requiring them to vacate the premises and to pay to the plaintiff ₱33 as unpaid rentals for eleven months. On appeal to the Court of First Instance of Iloilo, the appellant spouses pleaded that the document Exhibit "B" was a mere mortgage to secure their indebtedness to the plaintiff of ₱200 and 5 bultos of palay; and after trial, the Court below, as already stated, found the document Exhibit "B" to be a mere mortgage, and ordered the defendants to pay to the plaintiff within 90 days the sum of ₱200, with legal interest from the date of the filing of the complaint, and five bultos of palay, otherwise, the mortgage would be foreclosed in accordance with law. Wherefore plaintiff Eduardo Aguirre appealed to this court.

After carefully reviewing the record, we find the conclusion of the lower court that the document Exhibit "B" is

a mere contract of mortgage to be fully sustained by the evidence.

Firstly, this finding is primarily supported by appellant Eduardo Aguirre's own declarations and admissions in the court below. During direct-examination, Aguirre twice stated that the land in question was given to him by the defendant Penilla "en prenda" (t. s. n. pp. 10, 12); that is, by way of security. And in cross-examination, he affirmed that a contract of mortgage was executed by the defendant Penilla in his favor in order to secure payment of a certain obligation contracted by Penilla prior to the execution of the document Exhibit "B" (t. s. n. p. 16). Plaintiff also stated that he gave the defendants the loans requested by them during the occupation only "bajo la condicion que me *garantizaran* el terreno residencial que ellos tienen" (t. s. n. p. 17, also p. 18); and answering questions by the court, plaintiff said that the "prenda" or security was not executed during the war because there was no one to draft the instrument, so that the document was executed only after liberation (t. s. n. p. 19). These voluntary declarations of plaintiff-appellant in the court below leave no room for doubt that the deed of sale Exhibit B is none other than the "prenda" or mortgage executed in his favor by the defendant Penilla after liberation to secure the payment of the latter's indebtedness contracted during the occupation, since no other mortgage contract appears on record. And the testimony of Pacifico Cajilig, the notary public who prepared and acknowledged the deed of sale *con pacto de retro* Exhibit "B", who merely declared as to the formal preparation and acknowledgment of said document, can in no way prevail over the testimony of appellant himself plainly showing the real intention of the parties in the execution thereof, because it is characteristic of simulation that the true nature of the disguised contract should only be known to the parties thereto.

That the deed Exhibit "B", although a sale *a retro* on its face, is a mere mortgage, is further shown by the fact that the supposed vendor *a retro*, appellee Penilla, remained in possession of the land in question after the alleged sale, during the supposed period of redemption, and even after the expiration of such redemption period. It is of the essence of a contract of sale with *pacto de retro* that the legal title to the property is immediately transferred to the vendee, subject only to the vendor's right to redeem, so that the vendee would naturally take possession of the property conveyed after the execution of the contract. It is for this reason that it has been uniformly held, and the new Civil Code now expressly provides [Art. 1602 (2)], that where in a contract of sale with *pacto de retro*, the vendor remains in possession as lessee or otherwise, the contract shall be presumed to be an equitable mortgage;

for the retention by the vendor of the possession of the property is inconsistent with the vendee's acquisition of the right of ownership under a true sale subject only to the vendor's right to redeem, and discloses in the alleged vendee a lack of interest in the property that belies the truthfulness of the sale *a retro*.

Of course, appellant also claims that he allowed the defendants-appellees to remain in the possession of the land in question only upon the condition that they would pay rentals thereon of ₱3 a month. But this alleged lease agreement, according to him, was supposed to start only in July, 1947 (Complaint, Rec. App., p. 3), i.e., only after the expiration of the redemption period provided for in the deed Exhibit "B" on May 31, 1947. And even this supposed lease agreement allegedly made after the expiration of the period of repurchase in Exhibit "B" (which is strongly denied by the defendants) has not been satisfactorily established; for not only has appellant failed to present any written contract or other competent evidence thereof, but he admitted that the defendants had not paid a single monthly rental up to the filing of this action in June, 1948, or for a period of eleven months. In fact, plaintiff-appellant's inaction in not ejecting the defendants from the premises until almost a year after the expiration of the redemption period provided for in Exhibit "B" shows not only the improbability of the existence of a lease contract between the parties, but also that the deed Exhibit "B" is not a true sale or conveyance of ownership; for had the plaintiff truly consolidated ownership of the land in question after the expiration of the redemption period, he would not have waited for almost a year before trying to obtain possession thereof from the defendants, especially since the latter had not paid any rentals on the property up to the filing of this suit.

We therefore agree with the court below that the document Exhibit "B" should be interpreted and construed as an equitable mortgage, intended by the parties merely to secure payment by the defendant Jose Penilla of the loans obtained by him from the appellant during the occupation.

We now come to the question of the true amount of the defendants' indebtedness to the plaintiff-appellant, wherein the parties are in disagreement. The defendants claim that the true amount of their obligation to the appellant, contracted when they were living with the latter during the period of their evacuation, was only ₱200 and five bultos of palay; and that the amount of ₱190, added to this indebtedness to make the total of ₱505 appearing as the consideration in the deed Exhibit "B", was intended by appellant to be interests on the principal loan. Appellant, on the other hand, testified, first, that ₱390 and five bultos of palay were borrowed by the defendants when they came to



live with him during the war (t. s. n. p. 17); and later, that only ₱200 was loaned by him to the defendants during the occupation, the difference of ₱190 and the palay having been added by him and delivered to the defendants only after liberation, when Exhibit "B" was executed (t. s. n. p. 20). These contradictory statements of appellant naturally tend to discredit his claim that the true consideration of Exhibit "B" is ₱505 or ₱390 and five bultos of palay. On the other hand, appellant's admission that only ₱200 was loaned by him to the defendants during the period of the occupation, confirms the version of the latter that the real amount of their indebtedness to the appellant, which they secured by a mortgage on the land in question, is only ₱200 and five bultos of palay. The lower court, therefore, did not err in ordering them to pay this amount to the plaintiff, the mortgage to be foreclosed in case of default.

Appellant finally argues that the defendants could not attack the deed of sale Exhibit "B" collaterally, and should have filed a separate action for its annulment. This argument is manifestly not well-taken. In the first place, not having raised this question in the court below, appellant can not now raise it for the first time on appeal. In the second place, while defendants prayed in their answer that the contract Exhibit B be declared null and void, they do not really seek its nullity, because their defense to plaintiff's complaint for unlawful detainer is that the true intention of the parties in the execution of Exhibit B was a mere contract of mortgage or security, so that they have remained the owners of the land in question entitled to its possession and enjoyment. In other words, defendants merely sought to have Exhibit "B" interpreted and construed as a mere mortgage, in accordance with the true intent and agreement of the parties; and as we have already discussed above, their position has been fully established by the evidence.

Wherefore, the judgment appealed from is affirmed, with costs against the appellant Eduardo Aguirre.

*Ocampo and Pecson, JJ., concur.*

*Judgment affirmed.*

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[No. 6159-R. April 21, 1954]

JUANA BALAGOT, plaintiff and appellee, *vs.* JACINTO LARA,  
defendant and appellant

PLEADING AND PRACTICE; NEW TRIAL; DEFECT OF A TECHNICAL NATURE, CURABLE AT ANY STAGE OF PROCEEDINGS, NOT GROUND FOR NEW TRIAL.—The failure of the plaintiff to join in the case as parties the heirs of her deceased husband does not warrant the granting of a new trial. Such omission is a mere technical error which can be cured at any stage of the proceedings, even after judgment. (Rule 17, section 2,

and Rule 3, section 11, Rules of Court; *Quizon vs. Salud*, 12 Phil., 109; *Diaz vs De la Rama*, 40 Off. Gaz., 2464; *Cuyugan vs. Dizon*, 45 Off. Gaz., 673).

APPEAL from a judgment of the Court of First Instance of Pangasinan. Lucero, J.

The facts are stated in the opinion of the court.

*Avena Villaflores & Lopez* for defendant and appellant.  
*De la Cruz & Padlan* for plaintiff and appellee.

NATIVIDAD, J.:

The plaintiff has brought this action to compel the defendant to accept the amount of ₱850 in payment of a certain loan and to vacate and surrender possession to her of certain parcel of land, which, it is alleged, has been placed as security for the payment of such loan, to render an accounting of the products of that parcel of land, and to pay damages. The defendant resists the action on the ground that the parcel of land referred to in the complaint has been conveyed to him by the plaintiff and her deceased husband by way of absolute sale, and asks, in counter-claim, that the plaintiff be either ordered to execute another deed of conveyance of the land in his favor, or to pay him ₱5,000 as repurchase price of the land.

After trial, the lower court rendered judgment, directing the defendant to accept the amount of ₱850 in full payment of the plaintiff's indebtedness to him and surrender to the latter the full possession of the parcel of land described in the complaint, together with the improvements existing thereon, and to pay the costs. From this judgment, the defendant appealed.

It appears that in the early part of the year 1940, the plaintiff, Juana Balagot, and her husband, Raymundo Hidalgo, now deceased, who were then residing in Malaybalay, Bukidnon, secured from the defendant, Jacinto Lara, a loan of the sum of ₱400, Philippine currency. To guaranty the payment of this loan, which was sent to them by the defendant in postal money order, the spouses Raymundo Hidalgo and Juana Balagot delivered to the defendant the possession of a portion of the parcel of land described in the complaint, situated in the barrio of Luna, municipality of Natividad, Province of Pangasinan, of which they were the exclusive owners, their title thereto being evidenced by Original Certificate of Title No. 27886, Office of the Register of Deeds, Province of Pangasinan, subject to the condition that the fruits thereof, which the defendant would receive, would be considered as payment of whatever interest the loan may earn. Towards the middle part of that year, the plaintiff and her husband, being in further need of money, secured from the defendant another loan of ₱400, and to guaranty the payment of this additional

loan they delivered to the latter, under the same condition, the other portion of the lot above referred to in which were erected a residential house of mixed materials and a granary. Thus it happened that since the year 1940 the defendant has been possessing and enjoying the fruits of the whole parcel of land covered by Original Certificate of Title No. 27886 above referred to, together with all the improvements existing thereon.

Raymundo Hidalgo died in Malaybalay, Bukidnon, in the month of August 1945 without having paid the loan in question. In June 1946 the plaintiff returned to Natividad, Pangasinan, and told the defendant that she wanted to pay her debt. As the defendant was agreeable to the proposition, the plaintiff borrowed from the former ₱50 and asked him to accompany her to Malaybalay to get the necessary amount from her daughter-in-law who remained in that place. Once in possession of the amount, the plaintiff returned to Natividad and tendered to the defendant the sum of ₱850 in full payment of her indebtedness. The defendant, however, told the plaintiff that he had changed his mind and that he preferred to retain the property. Hence, the plaintiff brought this action.

The appellant makes in his brief the following assignment of errors:

"1. The lower court erred in not suspending the trial of this case after plaintiff's testimony revealed that her husband left children and grandchildren who had not been made parties to the action, and furthermore, in not setting aside its decision as prayed for by the defendant after rendition thereof, for the purpose of including them as parties therein.

"2. The lower court erred, granting that the trial was valid even without the inclusion of the principal heirs of Raymundo Hidalgo, in holding that under the facts and circumstances of this case, the existence of the deed of sale by said Raymundo Hidalgo and plaintiff Juana Balagot had not been duly established.

"3. The lower court erred in not believing the testimony of the defendant and his witnesses upon the grounds mentioned in its decision, which grounds however, on close analysis, will be found unfounded and untenable."

It is contended under the first assignment of error that the trial court erred in not setting aside its judgment and in not ordering the inclusion of the heirs of the deceased Raymundo Hidalgo as parties in the case, as prayed for in appellant's motion for a new trial, for as the loan was contracted by the plaintiff and her husband Raymundo Hidalgo, who is now deceased, the latter's heirs are indispensable parties thereto.

We are of the opinion that appellant's contention is without merits. Aside from the fact that the procedure which has been adopted by the appellant in this case is one which should not be countenanced by the courts (appellant, notwithstanding that he was aware from the beginning that the deceased Raymundo Hidalgo had left legitimate

heirs, did not file during the substantiation of the case any pleading asking that such heirs be joined as parties therein, and only asked for their joinder after the case had been decided by the lower court in a motion for a new trial, evidently speculating on its results), the defect complained of is a mere technicality which can be cured at any stage of the proceeding, even after judgment, and does not warrant the granting of a new trial (Rule 17, Sec. 2, and Rule 3, Sec. 11, Rules of Court; *Quizon vs. Salud*, 12 Phil., 109; *Diaz vs. De la Rama*, 40 Off. Gaz., 2464; *Cuyugan vs. Dizon*, 45 Off. Gaz., 673). In the case of *Cuyugan vs. Dizon*, *supra*, the facts of which are similar to those of the instant case, the Court held:

"We, however, do not believe that the case should be dismissed for plaintiff's failure to join her husband. (Section 11, Rule 3, Rules of Court.) Nor should the case be remanded to the court below and a new trial ordered on this account. The complaint may and should be amended here, to cure the defect of the party plaintiff, after final decision is rendered. Section 11, Rule 3, and Section 2, Rule 17 explicitly authorize such procedure. As this Court had occasion to say in *Quizon vs. Salud*, 12 Phil., 109, 116, "a second action would be but a repetition of the first and would involve both parties, plaintiffs and defendant, in much additional expense and would cause much delay, in that way defeating the purposes of the section, which is expressly to be that the actual merits of the controversy may speedily be determined without regard to technicalities and in the most expeditious and inexpensive manner." (See also *Diaz contra De la Rama*, 40 Off. Gaz., No. 12, 2464.)

The questions raised in the second and third assignments of errors are one of facts which must be decided upon the evidence. The trial court, in its well-prepared opinion, after a careful analysis of the testimonies of the witnesses presented by both parties, concluded that the facts of this case are as testified to by the plaintiff and her witnesses, and that the transaction at bar was one of loan with pledge of a parcel of land to guaranty its payment and not one of absolute sale of said property. We have examined carefully the evidence of record, and we find that such findings are fully justified. The plaintiff is a woman 83 years old and her statement appears natural, clear and convincing. She is closely related to the defendant, the latter's wife being her neice, and there is no showing that she has had any quarrel with the defendant or his wife. She is not an intelligent woman, and due to her age she must be God-fearing. She is not capable, therefore, of fabricating a complicated story. Moreover, her honesty is apparent; for, notwithstanding the fact that the debt in question was not evidenced by any document, she voluntarily admitted its existence when she could well afford to deny it. The trial court, therefore, was fully justified in concluding that her statement is as trustworthy as a dying declaration. Furthermore, the circumstantial evidence of record fully supports the statement of the plaintiff. The original certifi-

icate of title Exhibit "C", which covers the property in question, was in her possession and remains uncanceled. If the transaction were one of absolute sale as claimed by the defendant, it is strange that the latter, being an intelligent man, did not even take any step to have the property declared in his name for purposes of the payment of the land taxes thereon and allowed that certificate of title to remain in the name of the plaintiff and her husband. On the other hand, the statement of the defendant, besides being uncorroborated, are fraught with serious contradictions and incongruences. The appellant stated that the transaction in question was one of absolute sale in his favor and that it has been recorded in a written document which unfortunately he lost. A close study, however, of appellant's statement is sufficient to convince anyone that the alleged execution of that document and its subsequent loss is a fabricated story. The appellant stated that the document was drafted by Attorney Pedro Melendrez, who was then Clerk of the Court of First Instance of Bukidnon, and that it was drafted in English and translated into Ilocano and Spanish to Raymundo Hidalgo before the latter subscribed it before said notary public. His witness Filomeno Corpus, however, testified that the document was drafted in two languages, English and Spanish, and that it was translated into Ilocano to Raymundo Hidalgo by Notary Public Pedro Melendrez himself, but upon realizing that the latter was a Visayan and does not understand Ilocano, he changed his statement and stated that Attorney Melendrez translated the deed into Visayan to Pedro Hidalgo, son of the deceased Raymundo Hidalgo, who is turn translated it into Ilocano to the latter, a procedure which, as the trial court correctly remarked, is beyond comprehension, considering that Pedro Hidalgo spoke English, he being a voucher clerk in Malaybalay. As regards the alleged loss of the deed, the defendant stated in the early part of his testimony that it was taken by the Japanese in the City of Davao in the month of December 1941, before he boarded the steamship Don Isidro for Manila. (p. 50, t. s. n.) In the course of his statement, however, he said that it was taken by the Japanese soldiers in the month of December 1941 in the City of Manila after his arrival to the City (p. 51, t. s. n.), later that the document was taken by Japanese soldiers while he was on his way between Manila and Guiguinto in December 1941 (p. 63, and 64, t. s. n.), and much later that it was mislaid during his trip from Mindanao to Natividad, Pangasinan, a fact which he discovered only when he was at the Tutuban Station in Manila in 1941. On the face of these serious contradictions and incongruences, coupled with the fact of which the Court could take judicial notice, for it is part of the contemporary history of the country, that the

Japanese forces entered the City of Manila only on January 2, 1942, and, consequently, there could not have been Japanese soldiers in the City of Manila in the month of December 1941, there is every reason to believe that, as the trial court found, the facts of this case are as testified to by the plaintiff and her witnesses, and that, upon such facts, the latter's action must be upheld.

For the foregoing, we find that the judgment appealed from is in accordance with law and supported by the evidence. The same is, therefore, hereby affirmed in its entirety, with the costs taxed against the appellant.

It is so ordered.

*Paredes and De Leon, JJ., concur.*

*Judgment affirmed.*

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[No. 10318-R. April 23, 1954]

NG YA, doing business under the Trade Name SIO ENG STORE, plaintiff and appellee, *vs.* SUGBU COMMERCIAL Co., defendant and appellant. SUGBU COMMERCIAL Co., third-party plaintiff, *vs.* POW SUN GEE, third-party defendant.

COMMERCIAL LAW; PARTNERSHIP; POWERS OF THE MANAGER.—A manager of a partnership is presumed to have all the incidental powers to carry out the object of the partnership in the transaction of the business. There is of course an exception to this general rule, that is, when the powers of a manager are specifically restricted he could not exercise the powers expressly limited from him. But when the articles of association do not specify the powers of the manager, it is admitted on principle that *a manager has the powers of a general agent, and even more*. When the object of the company is determined, the manager has all the powers necessary for the attainment of such object. (1 Gay de Montilla, 100; Garcia Ron *vs.* Compania de Minas, 12 Phil., 130; Smith Bell & Co., *vs.* Aznar & Co., 40 Off. Gaz., 1882, quoted in Vol. I, p. 62, 5th Ed., Commercial Laws by Tolentino.)

APPEAL from a judgment of the Court of First Instance of Cebu. Saguin, J.

The facts are stated in the opinion of the court.

*Florencio L. Albino, Pedro R. Pacquiao and Nicolas Jumapao* for defendant and appellant.

*Borromeo, Yap & Borromeo* for plaintiff and appellee.

PEÑA, J.:

Ng Ya was a Chinese merchant who owned the Sio Eng Store in Surigao, Surigao, while the Sugbu Commercial Company was a partnership doing business in Cebu City. In the month of December, 1949, Ng Ya ordered from said company a total of 1,000 galvanized iron and aluminum sheets (Exhibits A & D). It was agreed that the goods



were to be shipped in a week's time, or on or before January 5, 1950. As Ng Ya failed to receive the goods on this date, she personally inquired about the same from the Sugbu Commercial Company in Cebu City, and Pow Sun Gee, the managing partner, told her that delivery of the goods would be made by the end of January. Again she failed to receive the goods on that date, and on inquiring about them she was told by the same manager that the company had not yet received the galvanized iron sheets which might arrive in February or March. Shih Tiong Chu informed her that he was going to Manila and promised her that he would ship her order direct to Surigao.

On February 28, 1950, Ng Ya again went to Cebu City to verify from the company if the galvanized and aluminum sheets had already arrived, bringing with her ₱4,000 with which she intended to buy cigarettes for resale in Surigao. For the third time, she was informed that her order had not yet arrived and that it was to arrive by March.

Upon learning Ng Ya's other purpose in coming to Cebu, Pow Sun Gee informed her that the company had an order for cigarettes and that as soon as they arrive they would sell the same at a low price provided payment therefor would be deposited. At the same time she was made to understand that the cigarettes were of "Virginia" and "Red Crown" brands which were not then for sale in Cebu. Attracted by this proposition, and believing that the delay of the arrival of the galvanized iron and aluminum sheets was not the company's fault, she yielded to Pow Sun Gee's offer. Thus, she delivered to the company the ₱4,000 which she had then with her as deposit for the payment of the cigarettes (Exhibit E), and was promised that delivery of the cigarettes would be made on July of 1950.

The amount of ₱4,000 was secured by Ng Ya from one Tan Chun Pia, owner of Lana Bakery in Surigao, with whom, before going to Cebu, she had an understanding of splitting the profits she hoped to realize from the buy and sell of cigarettes. Thus, in making the deposit with the Sugbu Commercial Company, the receipt for the deposit was issued in the name of Lana Bakery (Exhibit "E"). March came, then July, but neither the galvanized and aluminum sheets nor the cigarettes reached Ng Ya. Consequently, Tan Chun Pia of Lana Bakery, from whom she obtained the aforesaid amount of ₱4,000 got angry with her, and, for this reason, Ng Ya was forced to reimburse him of this amount (Exhibits F, "F-1" and "F-2") and kept going to the Sugbu Commercial Company to alternatively demand either the delivery of the galvanized iron and aluminum sheets and cigarettes, or the return to her of the total sum of ₱9,400. Unfortunately everytime she dropped in there, poor Ng Ya was challenged by Shih Tiong Chu to file a complaint, and she had to seek the help of the Chinese Chamber of Commerce for

the settlement of her claim with the Sugbu Commercial Company. As this was fruitless, Ng Ya finally filed a complaint with the Court of First Instance of Cebu against the Sugbu Commercial Company, praying that—

(1) Defendant be ordered to pay to the plaintiff on the first cause of action the sum of P5,400, plus damages amounting to P500;

(2) Defendant be ordered to pay the plaintiff on the second cause of action the sum of P4,000, plus damages amounting to P400;

(3) Defendant be ordered to pay to the plaintiff on the third cause of action the sum of P1,000;

(4) A writ of attachment immediately issue against the property of the defendant, as security for the satisfaction of any judgment that may be recovered;

(5) Plaintiff be granted such other reliefs as may be just and equitable in the premises.

Answering the complaint, defendant Sugbu Commercial Company made specific denials of the allegations of said complaint, and by way of counterclaim it alleged that for the unjust and illegal presentation thereof it suffered damages in the amount of P2,000. Defendant, therefore, prayed that the complaint filed in this case be dismissed with costs against the plaintiff, and that she be ordered to pay P2,000 and for any other relief just and equitable.

The Sugbu Commercial Company then filed a third party complaint against Pow Sun Gee, alleging that said company was dissolved on January 19, 1951, by the agreement of the partners, Pow Sun Gee and Shih Tiong Chu; that it continued to exist only insofar as it was necessary and for the sole purposes of making a liquidation and settlement of its business; and that Pow Sun Gee assumed the responsibility of settling the accounts with Ng Ya and also of dropping this case of Ng Ya against the Sugbu Commercial Company. Thus, third-party plaintiff prayed for judgment—

1. Ordering the Third-Party defendant to indemnify the Third-Party plaintiff for whatever is adjudged against the latter in favor of the plaintiff;

2. Ordering the Third-Party defendant to pay the costs of the proceedings and such other relief which the court may find just and equitable.

As the motion to dismiss the third-party complaint was denied, the third-party defendant filed his answer after rendition of another order denying his motion for reconsideration.

After due trial, the lower court rendered decision, sentencing defendant Sugbu Commercial Company to pay plaintiff Ng Ya the sum of P9,400 with legal interest from the filing of the complaint and to pay the costs, and condemning Pow Sun Gee to reimburse the Sugbu Commercial Company of any amount paid by the latter by virtue of this judgment.

From the aforesaid decision, defendant Sugbu Commercial Company appealed and now maintains that the lower court erred—

1. In failing to consider facts and circumstances of weight and influence, and in not finding that the transactions upon which plaintiff's claim are based are simulated, fictitious and in fraud of the defendant partnership;
2. In giving full credence to the uncorroborated, inconsistent and improbable testimony of plaintiff Ng Ya relative to the alleged transactions evidenced by Exhibits A, C, and E;
3. In disregarding upon motion of plaintiff, parol evidence showing the circumstances under which Exhibit "29" was executed, and in holding that said Exhibit constitutes an admission of defendant's liability to the plaintiff;
4. In not giving weight to the testimony of the bookkeeper relative to the entries in the books of account and in not considering the significance of said entries; and
5. In rendering judgment against the defendant and in favor of the plaintiff.

Whether or not Pow Sun Gee had a bad reputation among some merchants in Cebu City is of no importance at least insofar as the claim of Ng Ya against the Sugbu Commercial Company, which had a different and distinct personality from Pow Sun Gee and from which Ng Ya ordered the galvanized iron and aluminum sheets as well as the cigarettes, is concerned. Pow Sun Gee receipted the aforementioned amounts of P5,400 and P4,000 in his capacity as manager of the Sugbu Commercial Company, and it is of no avail that the defendant company in its desire to evade liability to Ng Ya would gratuitously allege now that its manager, Pow Sun Gee, was not authorized to issue official receipts. Indeed, it would be quite queer that the manager of any juridical entity would not be authorized to issue receipts for amounts delivered to that entity through said manager, and that only his co-partner Shih Tiong Chu, who was most of the time in Manila, could do so. This is not in keeping with present day business dealings, for it is slow and highly inconvenient to those who transact business with the company. As manager, Pow Sun Gee, can be presumed to have all the incidental powers to carry out the object of the partnership in the transaction of business. Of course we are not unaware of the exception to this general rule, that is, when the powers of a manager are specifically restricted he could not exercise the powers expressly limited from him. But when the articles of association do not specify the powers of the manager, it is admitted on principle that *a manager has the power of a general agent, and even more*. When the object of the company is determined, the manager has all the powers necessary for the attainment of such object. (1 Gay de Montilla, 100; Garcia Ron *vs.* Compania de Minas, 12 Phil., 130; Smith Bell & Co. *vs.* Aznar & Co., 40 Off. Gaz., 1882, quoted in Vol. I, p. 62, 5th Ed., Commercial Laws by Tolentino.) Appellant did not even dare to present the articles of co-partnership that would show any limitation upon the powers of its manager—an indication

that there was none. For this reason, we hold and declare that the minor power of issuing official receipts is included in the general powers of the manager.

Similarly of no moment is the allegation of appellant company that Ng Ya and Pow Sun Gee are closely related. If this allegation were true, Pow Sun Gee should have favorably accommodated Ng Ya, contrary to what he had done to this poor Chinese woman. His co-partner Shih Tiong Chu even played as a second fiddle when he promised Ng Ya that as he was going to Manila he would see to it that the galvanized and iron sheets would be shipped to her from Manila to Surigao (p. 10, t. s. n.). Undoubtedly, such promise further made Ng Ya to have faith in the company.

Apparently desperate over what defendant-appellant had unjustly done to innocent Ng Ya, the former caused to be published in the newspaper "The Republic" the loss of some of its receipts which conveniently included the very numbers of the receipts issued to Ng Ya in December 1949, and February, 1950 (Exhibits "16", "16-A" to "16-C"), and after the publication, defendant filed its answer on January 24, 1951. Appellant's strategy is quite obvious and we can easily glean the predatory purpose that motivated said publication. If those receipts were really lost, such fact should have been published long time before, and not after summons was served upon defendant company. Certainly, such predatory move is frowned upon by professional and business ethics and should have been considered from a higher perspective before adopting it in a litigation like this.

For defendant-appellant to allege that invoices Nos. 0554 and 0555 (Exhibits "B" & "D") did not contain the notations "to be shipped on or before January 5, 1950" when they were entered in the books, is preposterous. Referring to the original and duplicate copies of these invoices (Exhibits "B, D, 1 and X-4"), we have readily noted the phrase "to be shipped on or before January 5, 1950" written below the notations: "Above Merchandise deposited in Bodega and Insured." Further examining these invoices, both originals and duplicates, we failed to note that the phrases quoted above were added of late on such duplicates which were always in the possession of appellant company.

In another desperate move, appellant alleges that the transaction entered into by Pow Sun Gee in behalf of Sugbu Commercial Company with Ng Ya was kept secret from Pow Sun Giao who, according to him, was assigned by Shih Tiong Chu as supervisor in the store. Admitting for a moment that the manager Pow Sun Gee kept the transaction a secret from Pow Sun Giao that could not prejudice Ng Ya, and shall not be forgotten that Pow

Sun Gee was the manager-employer of Pow Sun Giao. Would the latter pretend that he was the super-manager on top of his employer? Queer and funny. At any rate if he wanted to supervise the manager, he should have looked into the books of the company to verify what transactions were entered into by manager Pow Sun Gee and kept secret. We would rather blame Pow Sun Giao than believe him, for all we know he was a mere salesman in the Sugbu Commercial Company.

The trial court had carefully considered Ng Ya's frank, straight-forward and sincere testimony which perfectly dovetails the exhibits she had presented. There is no circumstance of weight and influence that was overlooked, and we do not feel justified in disturbing this particular finding, considering that the determination of the credibility of witnesses properly falls within the province of trial courts.

The lower court correctly ordered the striking out of that portion of Shih Tiong Chu's testimony where he attempted to show that he agreed not too willingly in recognizing in the dissolution agreement (Exhibit "29") the company's indebtedness to Ng Ya. The motion to strike out was not based upon the parol evidence rule, as wrongly contended by appellant, but on admission under section 7 of Rule 123 of the Rules of Court.

"Facts alleged in the complaint are deemed admissions of the plaintiff and binding upon him. Facts alleged in the answer are deemed admissions of the defendant and binding upon him. \* \* \*. Facts stated in a motion are deemed admissions of the movant and binding upon him." (III Moran's Comments on the Rules of Court, 1952 Ed., p. 64.)

Appellant may, however, claim in this connection that the foregoing rule is not applicable in this case, for its allegation that the terms in the dissolution agreement embodied the true and genuine intention of the parties was not made in the answer to the complaint, but in the answer to the counterclaim of the third-party defendant. But, the Supreme Court in the case of Magdalena Estate Corporation *vs.* Nyrick, 40 Off. Gaz., No. 21, Supp. 13, p. 141, held—

"A party cannot in the course of a litigation or in dealings *in pais*, be permitted to repudiate his representations or occupy inconsistent positions, or in the letter of the Scotch Law, 'to aprobate and reprobate.'"

Anent the fourth assignment of error, suffice it to say that the determination of the credibility of witnesses properly falls within the sphere of trial courts and, for this reason, if the court below did not give weight to the testimony of witness Honorio Gonzales, it was because in considering the same it was not worth believing.

Wherefore, and no reversible error having been committed by the trial court, the appealed judgment is hereby affirmed, with triple costs against defendant-appellant.

It is so ordered.

*Felix and Rodas, JJ., concur.*

*Judgment affirmed with triple costs against defendant-appellant.*

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[No. 8248—R. April 24, 1954]

VALERIANA AREJOLA VDA. DE ESTRADA, plaintiff and appellee, *vs.* PULQUERIO HERMOGENO, defendant and appellant.

1. LEASE; FAILURE TO PAY RENTALS; TYPHOONS AND WAR, NOT EXTRAORDINARY FORTUITOUS EVENTS UNDER ARTICLE 1575, OLD CIVIL CODE, CASE AT BAR.—The excuse that appellant was not able to reap any harvest for the agricultural year 1941–1942 due to typhoons and war operations, is legally unacceptable. First, because typhoons are not extraordinary fortuitous events contemplated by article 1575 of the old Civil Code of 1889 (then in force) as justification for non-payment of rent, because in this country it can not be said that typhoons are uncommon and could not be reasonably foreseen by the contracting parties. Neither did the war operations in 1942 come under that category, for on December 29, 1941, when the contract of lease (Exhibit B) was entered into, war with Japan already existed, and Luzon had been actually invaded by the enemy (cf. Cuyugan *vs.* Dizon, 45 Off. Gaz., 673; 10 Manresa, Codigo Civil Español, p. 600).
2. SALE; SALE "A RETRO"; ABSENCE OF RECONVEYANCE, EFFECT UPON VENDOR'S RIGHT TO TRANSFER OWNERSHIP.—In the absence of reconveyance from the vendee *a retro* the vendor *a retro* could only transfer the right to redeem the property, but not its ownership, which the vendor no longer had.
3. ID.; RIGHT OF REPURCHASE AND LEASE NOT INCOMPATIBLE IN EFFECT.—A deed of cession of right to repurchase a piece of land does not extinguish or supersede a contract of lease over the same property, since both agreements are not incompatible in effect.

APPEAL from a judgment of the Court of First Instance of Camarines Sur. Palacio, J.

The facts are stated in the opinion of the court.

*Pedro C. Relativo* for defendant and appellant.

*Anastacio M. Prilla* for plaintiff and appellee.

REYES, J. B. L., *Pres. J.*:

The case is one of those transferred to the Third Division from the First, in order to have the same promptly decided.

The following facts are not disputed:

(1) That on July 10, 1941, Dolores Lizardo, wife of defendant-appellant Pulquerio Hermógeno, sold with her husband's consent a six-hectare piece of unregistered land, situated in *sitio* Tina, district of Matobato, Pili, Camarines



Sur, to one Sixto Valencia, married to Candida Cezar. This sale was evidenced by a notarial deed (Exhibit D).

(2) On December 29, 1941, Sixto Valencia sold the same parcel of land to plaintiff-appellee Va'eriana Arejola, wife of Delfin Estrada and a resident of Goa, Camarines Sur, the vendor reserving his right of repurchase within 4 years, as evidenced by the notarial document Exhibit A. This sale was made with the knowledge of appellant, Pulquerio Hermógeno, as testified to by him (t. s. n. pp. 50-60).

(3) On the same date, December 29, 1941, Valeriana Arejola and Pulquerio Hermógeno executed another notarial document (Exhibit B) whereby Arejola leased to Hermógeno the same parcel of land for 4 years (the redemption period) at a yearly rental of 30 cavanos of palay, payable two weeks after each harvest.

(4) That Pulquerio Hermógeno never paid any of the rent called for by the lease contract, for which reason the lessor Valeriana Arejola, then already widowed, filed on February 14, 1948 the present case in the Court of First Instance of Camarines Sur (Case No. 958 of that Court) against defendant Pulquerio Hermógeno. The latter pleaded that in 1942, he harvested nothing because of typhoons and the war, and that in 1943, he became the owner thereof, by purchase from the original owner Sixto Valencia, and since then had possessed the property as owner.

At the trial, plaintiff Arejola and her witness, Juan Carmona, testified that after the harvest in November of 1942, Carmona demanded payment of the stipulated rent from Hermógeno, but the latter pleaded for extension, stating he only had seven cavanos ready; that in March, 1943, both Arejola and Carmona reiterated the demand, and Hermógeno promised to look for money equivalent to the 30 cavanos of palay; that after the harvest of 1945, Arejola and Carmona made a third demand, and Hermógeno told the lessor that he would mortgage his land to obtain money to pay the rentals due, but that no payment was made despite such promises.

The defendant in turn testified that in the 1941-42 season, no palay was harvested, first because of a typhoon, and then because the Japanese invaders ordered the civilians to evacuate the region; that in view thereof, Hermógeno agreed in December of 1942 with plaintiff's husband, Delfin Estrada (who was subsequently killed in 1943 by the guerrillas) to return the land leased, upon Estrada's promise to return the lease contract; that on July 1, 1943, Sixto Valencia sold him the same land for ₱700, as shown by the notarial deed Exhibit 1, promising to redeem it from Arejola; and thereafter, he had the tax assessment transferred to his name. Subsequently, he sold it under *pacto de retro*, first to Porfirio Ayubo (Exhibits 2 and 3), and later, to Ventura Cabalquinto. Hermógeno denied any demands for rent were made by Arejola or Carmona.

The trial Court refused to give credence to the testimony of the defendant that he had either returned the land to the plaintiff's husband or that he had acquired its ownership from Sixto Valencia; and accordingly sentenced him to pay 150 cavanos of palay as rent from 1942 to 1947, or in lieu thereof, P1,359.99, and to pay P500 attorney's fees, and costs. Whereupon, the defendant Pulquerio Hermogeno appealed to this Court.

After due consideration of the evidence on record, we find the appeal to be without merit. The testimony of appellant Hermogeno, alone and uncorroborated, can not prevail over that of appellee and her witness Carmona; especially since the trial Court, who had the best opportunity of gauging their respective credibility, found that appellant did not merit belief. Outside of these considerations, moreover, the circumstances contradict appellant's theory.

(a) The excuse that appellant was not able to reap any harvest for the agricultural year 1941-1942 due to typhoons and war operations, is legally unacceptable. First, because typhoons are not extraordinary fortuitous events contemplated by article 1575 of the old Civil Code of 1889 (then in force) as justification for non-payment of rent, because in this country, it can not be said that typhoons are uncommon and could not be reasonably foreseen by the contracting parties. Neither did the war operations in 1942 come under that category, for on December 29, 1941, when the contract of lease (Exhibit B) was entered into, war with Japan already existed, and Luzon had been actually invaded by the enemy (cf. *Cuyugan vs. Dizon*, 45 Off. Gaz., 673).

"Por ejemplo, si cuando el arrendamiento se pactó, el pais ardía ya en guerra, ó la región estaba ya infestada de langosta, aunque no lo estuviese la finca arrendada, es claro que se trata de casos fortuitos extraordinarios previstos, que desde luego ejercian su influencia en la fijación del precio, y que las partes tendrían en cuenta al contratar; de donde no resulta justo el que en tal supuesto se rebaje la renta." (10 Manresa, Código Civil Español, p. 600)

(b) No error was committed by the Court below in refusing to find that the land was returned (and therefore the lease rescinded) in 1942 by agreement with Delfin Estrada, plaintiff's husband; for there is no reliable evidence that in view thereof, he demanded an acknowledgment in writing of such return or rescission, all the more important in view of the fact that in 1943, he purchased the land, and demands for payment were being repeatedly made. On July 6, 1946, the plaintiff's attorney made a written demand (Exhibit C), and yet the defendant-appellant kept silent.

(c) The same considerations operate against the truth of the alleged purchase of the land by appellant Hermogeno from Sixto Valencia in July of 1943. As observed by the Court below, it is passing strange that despite demands for payment of rent by Carmona and appellee Arejola herself in 1946, defendant should keep silent about this purchase

and instead, merely promised to look for money wherewith to pay the rent due. And if no such demands were made, as appellant testified, why did not appellant at least invoke the purchase when plaintiff's attorney, Victoriano Azaña, made formal demand upon him by the letter Exhibit C?

But granting, *arguendo*, that such purchase had actually taken place, the deed of sale in favor of appellant (Exhibit 1) could not legally supersede the contract of lease Exhibit B. This is evident from the defendant's own admission that he knew that his vendor had previously sold the property to Arejola in 1941 (t. s. n. pp. 59-60).

"ATTY. PRILA:

Q. You stated that you had a conversation with Sixto Valencia in June, 1944, because he was selling his land object of his lease?—

A. Yes, sir.

Q. And you knew that this land has been sold under pacto de retro to Valeriano Arejola by Sixto Valencia?—A. Yes, sir.

Q. And you know that at the time when Sixto Valencia offered to you this land, Valeriana Arejola was still the owner of the land under pacto de retro sale?—A. Yes, sir.

Q. And you know also that Valeriana Arejola has the corresponding document *pacto de retro* of this land?—Yes, sir.

Q. Now, you have known this document of *pacto de retro* because it was shown to you when you signed the deed of lease?—A. Yes, sir." (t. s. n. pp. 59-60)

Appellant knew, or ought to know, that in the absence of reconveyance from Arejola, Valencia could only transfer to him the right to redeem the land in question, but not its ownership, which Valencia no longer had; and that, at the most, is the legal effect of appellant's deed Exhibit 1. That Valencia misused the money, and betrayed appellant's confidence by failing to repurchase the land, is no fault of plaintiff and appellee, who had no knowledge of that transaction.

Now, since Exhibit 1 only transferred to appellant the right to redeem, the contract of lease was not extinguished or superseded, since both agreements are not incompatible in effect. Appellant, therefore, can not shield himself with Exhibit 1 to evade obligations fairly and knowingly entered into by him. In fact, his attempt to do so is constitutive of bad faith, for he entered into Exhibit 1 with full knowledge that Valencia did not have the ownership or possession that he purported to convey.

(d) Defendant's bad faith is accentuated by his obstinate refusal to disclose his defenses until the case against him was filed; and such bad faith not only bars him from invoking the benefits of article 1473 of the Civil Code of 1889, regarding double sales, but also justifies the award of interest and attorney's fees provided in the last clause of the lease contract, Exhibit B.

It is natural that in March, 1943, the plaintiff-appellee should be demanding only one year's rent from appellant, for only one crop year had elapsed at that time. Such demand merely emphasizes appellee's fairness and sense of

justice, that strongly contrasts with appellant's conduct, and it can not constitute a waiver of future rent.

The judgment appealed from is affirmed, with the sole modification that appellant shall pay interest at the legal rate of 6 per cent on ₱1,359.99, the value of the palay due the plaintiff-appellee Valeriana Arejola, as fixed by the trial Court, from the time of the filing of the complaint. Costs against appellant in both instances.

*Ocampo and Pecson, JJ., concur.*

*Judgment modified.*

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[No. 10941-R. April 30, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*  
FELIPE GRANDE Y ROJAS, defendant and appellant

CRIMINAL LAW; EVIDENCE; IDENTIFICATION OF ACCUSED.—When the identification made by the complainant was made unhesitatingly and positively, there is no reason to doubt it. The suddenness and violence of the act, instead of blurring her memory, must have, on the contrary, caused the features of the malefactors to be imprinted vividly in her mind. (*People vs. Zapanta*, G. R. No. L-861, September 30, 1947, 45 Off. Gaz., P. 1312).

APPEAL from a judgment of the Court of First Instance of Manila. Sanchez, J.

The facts are stated in the opinion of the court.

*Luis A. Cuevas* for defendant and appellant.

*First Solicitor General Ruperto Kapunan, Jr.* and *Solicitor Adolfo Brillantes* for plaintiff and appellee.

OCAMPO, J.:

Felipe Grande y Rojas appeals from a decision of the Court of First Instance of Manila finding him guilty beyond reasonable doubt of the crime of robbery and sentencing him to imprisonment for an indeterminate period ranging from 6 months and 1 day of *prision correccional* to 6 years and 1 day of *prision mayor*, to indemnify the offended party, Lucia Salonga, in the amount of ₱120, without subsidiary imprisonment in case of insolvency, but with the accessories of the law, and to pay the costs.

The facts established by the evidence show that at about 6:30 p.m. on November 23, 1952, while Lucia Salonga was on her way to church, someone touched her on her left wrist. Looking back to see who it was that touched her she was surprised to see a man whom she had never known before. The man suddenly tightened his grip on her wrist, twisted her hand to the left, and forcibly wrested the Gruen wrist watch which was strapped to her left wrist. The man then fled with her wrist watch towards Washington Street and boarded a passing jeepney which was going towards España Street. Lucia Salonga pursued him shouting "magnanakaw! magnanakaw!"

The force used by the man in grabbing the wrist watch was so strong that the bracelet of the wrist watch gave a cracking sound when it broke as it was forcefully removed from her wrist. It also caused a severe pain on her wrist which became swollen for two days.

The watch and bracelet are valued at ₱120.

As the man succeeded in making good his escape Lucia Salonga reported the matter to the Police. On November 29, 1952, she was called to Precinct 6 of the Manila Police Department to see if any of the men there who had been arrested by the Police was the one who grabbed her wrist watch. Upon seeing the herein accused-appellant she immediately recognized him as the person who grabbed her wrist watch and forthwith pointed to him as the malefactor.

The accused-appellant's defense is an alibi. He alleged that at the time of the incident he was driving a jeepney picking up passengers for hire. The trial court observed that it was a half-hearted defense and did not merit any consideration for it did not preclude the possibility of his having committed the crime. Aside from this consideration the court *a quo* convicted him of the crime charged because of the positive declaration made by the complainant Lucia Salonga, who identified him without hesitation as the person who had grabbed her wrist watch.

In this appeal, the appellant questions the credibility of complainant Lucia Salonga. He tries to point out the improbability of her ability to recognize and identify the person who snatched her wrist watch, stating that at the time of the incident it was already dark and that she must not have been able to take a good look at the face of the person because she must have been looking instead at her wrist.

We find the foregoing argument without merit. Although it was already dark, the incident occurred near the church and there was a big light coming from a nearby post. The identification made by the complainant Lucia Salonga was made unhesitatingly and positively. We find no reason to doubt it. The suddenness and violence of the act, instead of blurring her memory, must have, on the contrary, caused the features of the malefactor to be imprinted vividly in her mind. (*People vs. Zapanta*, G. R. No. L-861, September 30, 1947, 45 Off. Gaz., p. 1312).

Wherefore, finding the decision appealed from to be in accordance with the law and the facts proven, the same is hereby affirmed *en toto* with costs against the appellant.

*Reyes, Pres. J., and Pecson, J., concur.*

*Judgment affirmed.*